

Compliance Policy and Procedures Manual

Chapter 2

Registration



Sales and Use Tax Department

California State

Board of Equalization

This is an advisory publication providing direction to staff administering the Sales and Use Tax Law and Regulations. Although this material is revised periodically, the most current material may be contained in other resources including Operations Memoranda and Policy Memoranda.

Please contact any board office if there are concerns regarding any section of this publication.

COMPLIANCE POLICY AND PROCEDURES MANUAL

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REGISTRATION**200.000****GENERAL STATEMENT ON REGISTRATION****200.000****REGISTRATION DEFINED****200.010**

For purposes of this manual, registration is defined as those functions related to the on-line input of data from an application form and related documents which result in the establishment of a new Client /Taxpayer Identification Number and/or taxable activity account under any Taxable Activity Type (TAT) administered by the Board of Equalization. TAT is the business activity that requires a client to register with the Board. This chapter provides taxable activity registration policy and procedures for sales and use tax permits.

“Registration” does not include:

- Reinstatements after revocation
- Reinstatements after close-out
- Changes of address
- Conversion of an account from one Taxable Activity Type to another
- Miscellaneous changes to an existing account record

These functions are covered in depth in Chapter III, Account Maintenance.

CLIENT TAXPAYER SYSTEM (CTS)**200.030****Client Taxpayer System Overview**

The Client Taxpayer System is an integrated database. Its purpose is to provide the capability of identifying all related accounts for a given client/taxpayer. This system, in connection with the other subsystems, provides the Board of Equalization with a relational database.

CAUTION: To maintain the integrity of this database, the users must exercise additional care. **It is imperative that each client/taxpayer identified in this system is issued only one Client/Taxpayer Identification Number (TIN).** Through this TIN, the relationship of the client to any other client number or taxable activity can be established.

Client Defined

A client is any person who can be uniquely identified and for whom the Board needs to keep information, such as name and address, for the collection and administration of taxes. The Board may use this information in order to send correspondence, tax returns, notices, and billings.

A client will be identified by a code, as follows:

CODE	TYPE DESCRIPTION	CODE	TYPE DESCRIPTION
B	Unincorporated Business Org	K	Limited Liability Partnership
C	Corporation	L	Limited Partnership
D	Doing Business As (DBA)	M	Husband & Wife Co-ownership
E	Estate	O	Organization or Association
F	Federal Government	P	Partnership or Co-ownership
G	Other Government (State/City/County)	R	Receivership/Fiduciary
H	Historical Name	T	Trust
I	Individual	V	Joint Venture
J	Jurisdiction (City/County) for allocation only.	Z	Limited Liability Company

Taxpayer Defined

A taxpayer is a client who applies for a permit or is required to be registered for one or more Taxable Activity Types administered by the State Board of Equalization. A taxing jurisdiction or governmental agency may also be a taxpayer if they meet these requirements.

Registering a Client/Taxpayer

The registration of a taxpayer for a taxable activity is a two step process.

- The Client Taxpayer System database must be searched to determine if the taxpayer has an established TIN. If none is located, the taxpayer must first be registered as a client/taxpayer. Refer to the “Client Taxpayer System (CTS) User’s Guide” for detailed instructions.
- The second step is the registration of the taxable activity. For on-line registration instructions for a taxable activity, refer to the “Taxable Activity Registration” chapters of the CTS User’s Guide.

Taxable Activity Registration policies and procedures for sales and use tax accounts, other than on-line instructions, are found in the succeeding sections of this chapter of the CPPM.

APPLICATIONS FOR PERMIT OR LICENSE 205.000

PURPOSE OF APPLICATIONS 205.010

Application forms for business taxes permits are designed to obtain necessary information to establish an account, and to record information that may be used later for efficient enforcement of the laws, rules, and regulations pertaining to a particular applicant.

APPLICATIONS FOR PERMIT OR LICENSE — WHO MUST FILE 205.020

The tax laws administered by the Board, with the exception of the Alcoholic Beverage Tax Law, require applications for permits or licenses to be filed with the Board. Under the Alcoholic Beverage Tax Law, certain interstate transporters are required to make application to the Board; for all others, issuance of a license by the Department of Alcoholic Beverage Control (ABC) constitutes registration. ABC furnishes a copy of the license to the Board's Special Taxes Department.

ISSUING PERMITS BEFORE START OF BUSINESS 205.025

Taxpayers occasionally apply for a permit far in advance of the start of business. The two most common examples are fireworks stands and Christmas tree lots. For these businesses, a seller must often provide a vendor with a resale certificate months prior to the actual date sales begin. "Special events" are another example where the event operator requires signups, scheduling and permit numbers months in advance.

In these and similar situations, Board policy is to issue a permit up to nine (9) months in advance of sales.

Caution!

- If a taxpayer is issued a temporary account (Taxable Activity Type: SR, Account Characteristic Code: 01), information contained on the application must be accurate, since there are limited changes that can be made via the Online Registration System.
- If the account is not temporary, any account maintenance performed must show an effective date on or after the start date.

APPLICATIONS BY MAIL — EXPRESS REGISTRATION 205.030

Applications can be requested in person, by mail, telephone, automated faxback, or downloaded from the Board of Equalization's website. These options have been designed to improve service to our clients and reduce walk-in traffic in field offices. When a taxpayer requests a registration application, the persons responsible for processing the request, should obtain as much information as possible so they can send the required registration application packet. Applications mailed to taxpayers which have not been returned after a reasonable period of time may be followed up by letters, or phone calls.

If proper registration is still not obtained followup for compliance.

**APPLICATIONS SUBJECT TO CALIFORNIA
CONFIDENTIAL ADDRESS PROGRAM****205.035**

Government Code section 6205 addresses confidentiality for victims of domestic violence. The law, effective July 1, 1999, will remain in effect until January 1, 2005, and then is repealed unless extended by statute.

This law establishes the California Confidential Address Program (Cal CAP) under which an adult person, or guardian on behalf of a minor or an incapacitated person, may state that he or she is a victim of domestic violence, and fears for his or her safety. The individual designates the Secretary of State (SOS) as the agent for service of process and receipt of mail. When the SOS certifies the person as a program participant, his or her residential, school, or work address becomes confidential.

The participant will be given an identification card. The front of the card states that the individual has been certified to participate in the Confidential Address Program and provides the person's date of birth, authorization ID number, and an expiration date of the card. The back of the card provides the following mailing address: P.O. Box 846, Sacramento, CA 95812-0846 which, in conjunction with the person's authorization ID number, may be used to send mail to the participant via the SOS. The card also includes a fictitious street address that may not be used for mailing correspondence.

Sales and Use Tax Applications — District Offices and CATS

- All applications for Sales and Use Tax Permits submitted by persons presenting the identification card will be forwarded in an envelope marked "Confidential" to the Internal Security and Audit Division (ISAD), attention: Disclosure Officer. A copy of the identification card should be forwarded with the application. The field office will not issue a permit.
- A review of the application should be completed before forwarding the application to ISAD. Staff should not request to see the person's driver's license.
- The taxpayer should be advised that the Board's Headquarters office in Sacramento issues permits in such cases and it will be approximately 5-7 business days before a permit can be issued.

Special Taxes and Property Taxes Applications

- All applications for permits or registration under other tax or fee programs administered by the Board submitted by persons presenting an identification card shall be forwarded in an envelope marked "Confidential" to ISAD, attention: Disclosure Officer. Telephone registration will not be accepted under this program.
- The taxpayer or feepayer should be advised that the application will be processed through the Board's Disclosure Officer and it will be approximately 5-7 business days before the registration will be completed.

Processing**Internal Security and Audit Division**

The law allows an agency that has administrative or statutory justification for requesting the confidential address of a Cal CAP participant to submit its request to the SOS. Upon receiving a completed application or registration form, the Disclosure Officer will request the confidential address of the taxpayer or feepayer from the SOS. When the confidential address is received from SOS, it will be maintained in a secure area in ISAD. This confidential address will not be disclosed to the public.

- After the Disclosure Officer has filed the exemption request with SOS, the registration application will be forwarded to designated staff in Headquarters who will register or update the account.
- If there is a legitimate work-related need, such as an audit or collection of a delinquent tax or fee liability, the District Administrator, District Principal Auditor, or District Principal Compliance Supervisor may contact the Board's Disclosure Officer in ISAD to obtain the confidential address of those registered through the Cal CAP program. The Disclosure Officer will advise the requester on how to maintain confidentiality of the address.

Registration/Update Procedures

- Applications will be processed according to established procedures.
- Sales and Use Tax Permit applications will be processed using a statewide tax area code (59999) for local tax purposes and assigned the district office code KH. If the account is expected to report more than \$600.00 in local sales tax per year, the Board's Local Revenue and Allocation Section with the assistance of the Disclosure Officer will be responsible for properly allocating the local tax. If the account is selected for audit or becomes a collection case, the account will be manually assigned.
- The account will receive a "SOS Confidential" flag.
- In the event the Cal CAP participant is disqualified from the program, the account will be corrected to reflect the true address information of the taxpayer. The account's registration record will retain the "confidential" flag to ensure the individual's safety.
- *Should the actual physical address of a Cal CAP participant be discovered by any means, the address is not to be placed in the file, in paper notes, or electronic notes. This information should not be provided to any federal, state, county or local government representative.*

Confidential information is protected by law, regulation, and policy. Information security is strictly enforced. If you violate the rules you may be subject to disciplinary, civil, and/or criminal action. Protecting confidential information is in the public's interest, the state's interest, and your own personal interest.

INSTRUCTIONS TO APPLICANTS**205.040**

Applicants for any permit should be told that personal information they furnish will be held in confidence. Applicants also should be informed of basic law requirements pertaining to their business, including instruction in preparation of returns and filing requirements, due dates, tax rate(s), and district information. Laws affecting transactions in which the taxpayer will be involved should be explained.

Taxpayers will be given regulations, or official publications relevant to his/her type of operation that should be helpful in accounting for and reporting proper tax liability.

The publications listed below may be provided to the taxpayer, as appropriate, at the time of application. The publications that are furnished to the taxpayers should be noted in the shaded area of each express registration application. The shaded area of each application follows the Certification Section.

- Publication 44, Tax Tips for District Taxes
- Publication 51, Guide to Board of Equalization Services
- Publication 70, Taxpayer Rights
- Publication 71, California City and County Sales and Use Tax Rates
- Publication 73, Your California Seller's Permit
- Regulation 1654, Barter, Exchange, "Trade-ins" and Foreign Currency Transaction
- Regulation 1668, Resale Certificates
- Regulation 1700, Reimbursement for Sales Tax
- BOE-6, National Voter Registration Act (NVRA) Declination Form
- BOE-8, Get It in Writing!
- BOE-72, Sales Tax Reimbursement Schedule
- BOE-162, Personal Liability for Corporate Sales and Use Tax (for corporate applicants)
- BOE-173, Taxpayers Questionnaire
- BOE-324-A, Notice to Individuals Regarding Info Furnished to the BOE.
- BOE-367, Filing Instructions for Sales and Use Tax Accounts
- BOE-400-Y, Important Reminder for Sales and Use Tax Accounts Reporting on a Yearly or Fiscal Yearly Basis
- BOE-467, Notice of Requirements in Sale of a Business (where application resulted from purchase of an existing business)
- BOE-519, Misuse of Resale Certificates
- BOE-598, Notice of Security Requirements; or BOE-1009, Notification of Conditional Security Requirements
- BOE-800, Headquarters Voice Telecommunications Service Request (when taxpayer indicates a hearing problem).
- Regulations (for specific type of business as shown in Business Taxes CodeBook, Section 203.035). A list of publications and regulations that should be given at the end of the registration process can be found using the TAR BT screen.

Board representatives interviewing applicants in person for a seller's permit should explain all the furnished material in sufficient detail so they are reasonably certain the taxpayer understands its provisions.

DECISION TABLE FOR ISSUING A SALES AND USE TAX PERMIT**205.050**

District office staff is responsible for registering the following Taxable Activity Types. The decision table can help determine the appropriate sales or use Taxable Activity Type for the applicant's situation. If the applicant is making a one-time payment of use tax due for the purchase of a vehicle, vessel, or aircraft, refer to CPPM 215.010 and 295.095.

Condition	A	B	C	D	E
Taxpayer SELLS tangible personal property in California	Y	Y			
Taxpayer is located in California, or has agents or stock of goods in California	Y				
Taxpayer has no in-state location , and has no sales personnel or order takers in-state		Y			
Taxpayer makes no sales, but purchases tangible personal property to be used in California			Y	Y	Y
AND taxpayer purchases from unregistered out-of-state sources			Y		
OR taxpayer is located in a district and makes purchases from a non-district.				Y	

Taxable Activity Type	A	B	C	D	E
Issue SELLERS PERMIT (SR, SR X, SR Y, SR S, SR Z, SR (ACCT CHAR 001))	X				
Issue CERTIFICATE OF REGISTRATION - USE TAX (SC)		X			
Issue CONSUMER USE TAX PERMIT (SU)			X		
Issue CONSUMER USE TAX PERMIT (SU S)				X	
NO PERMIT REQUIRED					X

TYPES OF APPLICATION FORMS**205.060**

1. Form BOE-400-SPA, *California Seller's Permit Application*, is used to register an applicant who is, or is about to be, engaged in a business in this State involving the sale of tangible personal property. The BOE-400-SPA is used when applying for a regular or a temporary seller's permit.
2. Form BOE-400-CSU, *California Consumer Use Tax Account Application*, is used to register persons or businesses that regularly incur use tax liabilities but that are not engaged in a business requiring a seller's permit.
3. Persons or businesses that do not maintain a place of business within the state but that voluntarily, or as required by law, collect use tax on purchases that are shipped into California for use in this state by California purchasers should register using Form BOE-400-CSC, *California Certificate of Registration – Use Tax Application*. For example, businesses with sales personnel in California but without a fixed business address in this state should apply using Form BOE 400 CSC. RTC sections 6203 and 6226 are used to determine whether the applicant meets the criteria that would require that applicant to hold a permit and collect use tax.

Although not included in the decision table above, the following types of applications are also occasionally processed by the district office staff:

1. Form BOE-400-CSL is used to obtain a *Certificate of Registration — Lender* where the applicant wishes to claim a deduction for bad debt losses on account receivables found to be worthless, and if the account receivables were acquired from a retailer that previously paid the sales and/or use tax, on the sale of tangible personal property.

TYPES OF APPLICATION FORMS

(CONT. 1) 205.060

A lender may be a person who purchased or holds an account receivable acquired without recourse from a retailer. The retailer must have previously reported California sales or use tax on the sale of tangible personal property for which credit was extended to the buyer. A "lender" does not need to be a person already registered with the Board of Equalization.

When a retailer purchases an account receivable from another retailer, the purchasing retailer must also register as a "Lender" in order to claim the "Bad Debt-Lender Loss" deduction. In cases where the purchasing retailer already holds a California seller's permit, the Certificate of Registration - Lender is issued once a completed application has been submitted to the BOE. The Certificate of Registration - Lender is issued using the same account number as the existing seller's permit number. The seller's permit account must be updated to reflect the fact that a Certificate of Registration - Lender was issued.

If the applicant does not hold a California seller's permit, a Certificate of Registration - Lender is issued using a new account number.

2. Form BOE-400-FEN, *Application for Fuel Exemption Number*, is used when a common carrier- is not required to hold a seller's permit, and its purchases of fuel may qualify for exemption pursuant to RTC section 6357.5 or 6385.

The Taxable Activity Type is SJ and the rules to establish the office of control follow the sales and use tax rules. This type of account is issued via the on-line registration system.

3. Form BOE-400-DP, *Application for Use Tax Direct Payment Permit*. Under RTC section 7051.3, the BOE is authorized to issue a *Use Tax Direct Payment Permit* to qualified applicants. This permit allows purchasers and lessees of tangible personal property (other than lessees of motor vehicles the lease of which is subject to the terms of RTC section 7205.1) to report and pay use taxes directly to the BOE instead of to the vendor or lessor from whom the property is purchased or leased. See CPPM 295.060 for additional details.

Use Tax Direct Payment Permit holders will be provided with a Form BOE 46, *Use Tax Direct Payment Exemption Certificate*, which they can issue to retailers and lessors when purchasing tangible personal property subject to use tax or making qualified leases of tangible personal property. Vendors who timely take this certificate in good faith from a permit holder are relieved of the duty to collect use taxes on the sales for which the certificate was issued. Permit holders who use the certificate to acquire tangible personal property must report and pay the use tax directly to the BOE on their tax returns. They must also allocate the local use taxes to the county, city, city and county, or redevelopment agency in which the property is first used. Permit holders who fail to properly pay any use tax due on property for which a certificate was issued are subject to interest and penalty assessments in addition to their tax liability.

Persons wishing to obtain a *Use Tax Direct Payment Permit* must be pre qualified and either hold a California seller's permit or a consumer use tax account. To qualify for a Use Tax Direct Payment Permit, an applicant must meet both of the following conditions:

- a. The applicant must agree to report and pay directly to the BOE any use tax that is due on property for which a Use Tax Direct Payment exemption certificate was issued.

b. The applicant must certify to the BOE either of the following:

- (1) The applicant has purchased or leased **for its own use** tangible personal property **subject to use tax** which cost five hundred thousand dollars (\$500,000) or more in the aggregate, during the calendar year immediately preceding the application for the permit; or
- (2) The applicant is a county, city, city and county, or redevelopment agency.

Persons other than governmental entities who currently hold either a California seller's permit or a consumer use tax account must complete the *Use Tax Direct Payment Permit Application*, sign the certification statement attesting that they qualify for a permit under the conditions of Part (b)(1) above, and submit a "Statement of Cash Flows" or other comparable financial statements acceptable to the BOE for the calendar year immediately preceding the date of application. The financial statements must disclose the total purchases of property and equipment for the person's own use. In addition, a separate statement, under company letterhead, certifying that five hundred thousand dollars (\$500,000) or more of such purchases were subject to use tax, is required.

Persons other than governmental entities who are not required to hold a seller's permit and who do not currently hold a consumer use tax account must obtain a consumer use tax account and then complete the application for a *Use Tax Direct Payment Permit*, sign the certification statement attesting that they qualify for a permit under the conditions of Part (b)(1) above, and submit a "Statement of Cash Flows" or other comparable financial statements acceptable to the BOE for the calendar year immediately preceding the date of application which discloses total purchases of property and equipment for own use. In addition, a separate statement under company letterhead certifying that five hundred thousand dollars (\$500,000) or more of such purchases were subject to use tax, is required.

Governmental entities who currently hold either a California seller's permit or a consumer use tax account must complete the application for a *Use Tax Direct Payment Permit*, sign the certification statement attesting that they qualify for a permit under the conditions of Part (b)(2) above, and submit an additional statement to that effect under official letterhead and signed by an authorized governmental representative.

Governmental entities who do not hold a California seller's permit or a consumer use tax account must obtain a consumer use tax account and then complete the application for a *Use Tax Direct Payment Permit*, sign the certification statement attesting that they qualify for a permit under the conditions of Part (b)(2) above, and submit an additional statement to that effect under official letterhead and signed by an authorized governmental representative.

The completed Application for *Use Tax Direct Payment Permit*, certification statement, and qualifying documentation should be mailed to the Compliance Policy Unit. Upon determination that the applicant qualifies, a *Use Tax Direct Payment Permit* and a Use Tax Direct Payment Exemption Certificate will be mailed to the applicant.

**BOE-400-MCR, APPLICATION FOR
CERTIFICATE OF REGISTRATION — USE TAX****205.110**

Form BOE-400-MCR is used to register applicants who do not maintain a place of business in this state for which a seller's permit is required, but who (voluntarily or by statute) collect the use tax on sales made to instate purchasers, or for any applicants who maintain canvassers, solicitors, or sales personnel in this state with no fixed place of business. In rare instances, applicants will chose to voluntarily collect the use tax. In these instances the account should be entered with account characteristic code 008.

This program allows taxpayers to collect district taxes on a voluntary basis. Sellers may not wish to be responsible for collection of district use taxes from purchasers in all jurisdictions.

California retailers and out-of-state entities that have been issued a certificate to allow collection of district use taxes must complete Schedule A included with Form BOE-401-X (Return).

SALES TAX PERMITS**210.000****SELLER'S PERMIT****210.010**

Every person desiring to engage in the business of selling tangible personal property, the gross receipts from the ultimate retail sale of which must be included in the measure of sales tax, must file an application for a seller's permit for each place of business in California. The applicant must furnish such security, as the Board deems necessary, in a form acceptable to the Board.

Persons from out-of-state who maintain a stock of goods in California from which orders are filled are considered "sellers" under the California Sales and Use Tax law, and are required to hold a seller's permit. (Revenue and Taxation Code section 6006)

A seller's permit shall be issued to any person who requests one for the sale of tangible personal property the gross receipts from the retail sale of which are required to be included in the measure of sales tax. In general, the person requesting the permit must fully complete a seller's permit application and provide the information necessary for the Board to administer the state's sales and use tax laws.

Under the Sales and Use Tax Law, "person" is defined as any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee in bankruptcy, syndicate, the United States, this state, any county, city and county, municipality, district, or other political subdivision of the state, or any other group or combination acting as a unit. A cooperative association that is not incorporated is treated as a partnership with each member fully liable. (Revenue and Taxation Code section 6005)

Any administrator, executor, trustee or any other person who operates a business as a fiduciary must file an application for a permit or license. These persons, although under the jurisdiction of the courts, must operate according to the laws of the state.

"Living Trust" is a legal entity set up by persons for estate planning purposes. A person may place his/her assets into a living trust, and upon his/her death, assets may be distributed more quickly to heirs, often bypassing probate entirely. A living trust must have a trustee. Living trusts may operate businesses, and should be treated as a corporation when processing applications. Offices should view copies of legal documents establishing a living trust if any doubt exists whether the trust has been properly formed.

Other types of trusts that are about to engage in business should establish to the Board's satisfaction that they are legally formed. "Legally formed" would include documentation from the Franchise Tax Board, Secretary of State, Superior Court, or other authority, or for living trusts, copies of documents establishing the legal trust. If any doubt exists a permit should not be issued until further investigation is made.

PERMIT OF DECEASED TAXPAYER — LIQUIDATION SALE**210.020**

A liquidation sale of business assets and inventory belonging to a deceased taxpayer may be conducted with the deceased person's seller's permit. The closeout date of a permit may be extended to the date the last sale was made. If, however, new merchandise is purchased for resale and the business continues to operate, a new permit for the person operating the business is required.

PERMIT OF DECEASED TAXPAYER — PARTNERSHIP**210.030**

Generally, when a business continues after death of a partner, the new permit will be in the name of the surviving partner(s). The estate of a deceased partner may be shown as a partner on a new permit only when approved by the court.

MUNICIPAL PURCHASING CORPORATIONS

210.040

Municipal purchasing corporations or municipal improvement corporations (MIC) are occasionally encountered. They are usually set up to make purchases for a local governmental entity. A MIC makes “sales” to the municipality thus allowing local tax revenues to be returned to the municipality which incorporated the purchasing corporation.

The State Board of Equalization determined sales by MIC’s to their creating jurisdiction are not sales made by retailers. Accordingly, MIC’s should not hold seller’s permits as they are not making sales.

USE TAX REGISTRATION**215.000****WHICH TAXABLE ACTIVITY TYPE?****215.010**

The Board has six separate and distinct Taxable Activity Types (TAT's) that relate to use tax:

- Consumer Use Tax Permits. **Taxable Activity Type SU** (District Responsibility)
- Certificate of Registration — Use Tax. **Taxable Activity Type SC** (District Responsibility)
- Vehicle and Mobilehome purchases from non-dealers. **Taxable Activity Type SA** (Consumer Use Tax Section Responsibility) Refer to section 295.095
- Vessel purchases from non-dealers. **Taxable Activity Type SB** (Consumer Use Tax Section Responsibility) Refer to section 295.095
- Aircraft purchases from non-dealers. **Taxable Activity Type SP** (Consumer Use Tax Section Responsibility) Refer to section 295.095
- Purchases from outside the state by California residents hand carried and declared through U. S. Customs. **Taxable Activity Type SI** (Consumer Use Tax Section Responsibility) Refer to section 295.095

Taxable Activity Type SU — Consumer Use Tax Permits are issued to purchasers of merchandise, and the purchaser pays any tax due directly to the Board.

Taxable Activity Type SC — Certificate of Registration Use Tax permits are issued to sellers or retailers of merchandise who are generally located out-of-state. Tax on the sale of merchandise to consumers is paid to the Board by the seller or retailer.

CONSUMER USE TAX PERMIT (TAT SU) — WHEN ISSUED**215.020**

Persons who regularly incur use tax liability, but who are not engaged in a business which requires them to hold a seller's permit, may have an account established with the Board and regularly receive Consumer Use Tax returns.

Typical businesses that may hold Consumer Use Tax permits would include the following:

1. Persons who purchase merchandise for use in California from out-of-state sources. This may include but is not limited to the following:
 - Construction contractors
 - Health professionals purchasing supplies from out-of-state
 - Governmental agencies purchasing equipment from out-of-state
2. Persons engaged in business in a district and who purchase from California sources outside of the district.

CONSUMERS LOCATED IN A DISTRICT**215.030**

A district is a local jurisdiction that, under enabling statutes, may impose transactions (sales) and use taxes within its borders. Most district taxes are levied on a countywide basis. Persons who reside in a district and who purchase merchandise from vendors located outside the district are liable for the additional tax due representing the difference between the tax charged by the vendor and the tax rate which prevails within the district.

CERTIFICATE OF REGISTRATION, USE TAX (TAT SC) — WHEN ISSUED**215.040**

Certificates of Registration — Use Tax, are issued to out-of-state sellers who are engaged in business in California. In addition, persons may voluntarily register for the purpose of collecting use tax from their California customers, even though they are not engaged in business in California. These sellers do not maintain a regular place of business in California.

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CERTIFICATE OF REGISTRATION, DISTRICT USE TAX**215.050**

This section specifically deals with instate retailers, and should not be confused with Section 215.040, which applies to out-of-state retailers.

In 1988, the Sales and Use Tax Law was amended to require automobile, vessel and aircraft dealers throughout the state to collect district taxes on sales of automobiles, vessels and aircraft made to residents of districts. For this reason, automobile, vessel and aircraft dealers who may previously have held a Certificate of Registration — Use Tax under which special taxing jurisdiction (district) tax was collected, no longer need to hold a certificate.

CONSUMER USE TAX ACCOUNTS — LOCAL TAX ALLOCATION**215.060**

- Taxable Activity Type code SU is used to identify consumer use tax accounts purchasing property extax out-of-state (equipment, building materials, supplies, etc.) for use at the address for which the account is established, or where the local use tax on items used at various locations is less than \$600 a year. Taxable Activity Type SU is the use tax equivalent to sales Taxable Activity Type SR.
- Taxable Activity Type code SU S is used to identify consumer use tax accounts where property is purchased extax out-of-state and used at different locations than that for which the account was established and the local tax is in excess of \$600 a year. Taxable Activity Type SU S is the use tax equivalent to sales Taxable Activity Type SR S. There is, however, no use tax account equivalent to a sales tax consolidated account. Separate use tax permits are required for each location.

DISTRICT USE TAXES**215.070**

Staff often encounters questions concerning application of district taxes to property which has been purchased from retailers elsewhere in California on which the state and local tax reimbursement has been charged by the seller, but not the district tax.

- When such property is purchased on or after the operative date of a district tax for use in the district, the merchandise is subject to the district tax.
- Unless the seller has collected district tax reimbursement or district use tax, the purchaser must report the tax on his/her sales and use tax return or on a consumer use tax return.
- Persons who do not hold seller's permits but who regularly accumulate district use tax liability should obtain a Consumer Use Tax permit and file consumer use tax returns.
- Consumers who occasionally incur district use tax liability should file and pay using an arbitrary account number. (See also Publication Nos. 23 and 44–A for additional details.)

The following instructions apply to purchasers of property used or consumed in districts who must remit taxes due:

OneTime Transactions

Purchasers owing district use tax on a onetime basis are not registered as consumers. Instead, issue an arbitrary number with Taxable Activity Type SR (ACCT CHAR 999). Prepare Form BT-401-E2, Utility Consumer Use Tax Return, with appropriate due dates, etc., entered on the form. Tax Code SR (ACCT CHAR 999) plus district/branch identifier and an arbitrary account number issued by Teale will be entered in the account number space. Advise the purchaser to fill in only spaces on Form BOE-401-E2 which pertain to district use tax and total tax due information.

Additional information on issuance of arbitrary numbers may be found in CPPM Subsection 295.090.

DISTRICT USE TAXES**(CONT.) 215.070****Undetermined Duration or LongTerm Involvement**

Persons planning to regularly accumulate district use tax liability should be issued a Consumer Use Tax permit, tax code SU. Instruct the taxpayer to fill in only spaces that pertain to district use taxes and total tax due information, using returns regularly sent from headquarters.

CERTIFICATE OF REGISTRATION — REPRESENTATIVES, AGENTS, ETC. 215.080

Form BOE-400-MCR also provides space in which to list the representatives, agents or salesmen operating in California. Additional schedules may be attached if more space is required. If the applicant has a large number of persons operating in this state, it is necessary to show only the principal representatives in California, such as area supervisors or managers.

CERTIFICATE OF REGISTRATION — CALIFORNIA LOCATIONS 215.090

Form BOE-400-MCR provides space to list the locations in California at which a sales office, sample room, warehouse, etc., is maintained by the applicant for a Certificate of Registration — Use Tax. Each such location is to be shown on the form and identified as to the type of activities conducted there. Additional schedules may be attached to the application if more space is required. If the applicant lists a warehouse in California, refer to decision table in section 205.050 for correct permit issuance.

EXPRESS REGISTRATION PROGRAMS**220.000****WHAT IS “EXPRESS REGISTRATION”****220.005**

“Express Registration” is a refinement of the program originally referred to as “Registration by Mail.” The term “Registration by Mail” is too restrictive and implies a program for registering taxpayers only using a mail-in procedure. For this reason, the term Express Registration was suggested to describe new forms and revised registration procedures. When the decision was made to change program names, many of the new forms developed for the Express Registration program were already numbered hence the forms contain an “M” as part of the form number denoting “Mail”.

Express Registration documents (packets) have been developed for individuals/partnerships or organizations/corporations requiring seller’s permits; these forms are called BOE-400-MIP (Mail, Individual and Partnership) and BOE-400-MCO (Mail, Corporation and Organizations). Temporary permits use BOE-400-MT (Mail, Temporary). All other programs have single application forms used only for that program; they are certificates of registration and consumer use tax accounts.

FIELD PROCEDURES**220.010****Availability to the Public**

Multiple Express Registration packets may be given to persons or firms wishing to provide registration services for their clients.

FollowUp of Packets Issued

District controls should be established to ensure packets are returned when a sale of a business has occurred.

Taxpayers who purchased a business or who are not part time and have not returned a completed packet or otherwise obtained a permit are to be contacted to determine whether or not a permit is necessary, or the cause for delay. Other applicants need not be tracked unless a need arises to track a specific person.

Packets Received from Taxpayers

- Large offices may designate one or two persons responsibility for sending Express Registration packets to taxpayers and processing completed packets received back from taxpayers.
- Packets received from taxpayers will be given to the person(s) responsible for processing express registration applications.
- Applications will be reviewed for completeness, legibility, and if applicable, proper district of control.
- Packets will be processed in the same office in which received, and will not be forwarded to the office of control prior to issuance of an account number EXCEPT as explained in 1.e following.
- Area code, business code and reporting basis will be entered below the account number block, and in the shaded area entitled “Board Use Only” applicable forms checked off. The person who performed these functions will enter his/her name in the space provided.

Processing Applications

1. Incomplete or illegible applications —

If a telephone call cannot resolve the problem, use the following procedure:

- a. Prepare a REJECT (BOE-400 RJ) letter noting all the necessary corrections. The incomplete area may also be highlighted on the application if desired.
- b. Mail the REJECT letter and original application back to the taxpayer with a preaddressed return envelope (E-11- series, such as E-11-AR, E-11-BHA, and so forth).
- c. Retain a copy of the REJECT letter and application. Establish a followup to ensure the permit is either issued or not required.
- d. If a corrected application is not received by the followup date, contact the taxpayer by telephone or issue a Notice to Appear, whichever would most quickly resolve the situation.
- e. If the steps above cannot resolve the problem, the matter should be assigned in accordance with district policy for further investigation.

2. Complete Applications (Except Temporary)

- a. Register account on-line and issue account number. Consumer Use Tax accounts have no permit form. Furnish a copy of the application to taxpayers only when specifically requested by the taxpayer.
- b. Prepare the appropriate ACCEPT letter (ACC — series of letters) plus any necessary returns and security documents.
- c. Select regulations, publications and forms appropriate for this type of operation and check proper boxes in the shaded area of the “Board Use Only” section. See CPPM section 205.040.
- d. Mail the letter and all necessary documents to the taxpayer.

3. Temporary Applications ONLY

- a. Register account on-line and issue account number. Make 1 photocopy of each side of the application form when it has been determined that a district office file should be created. Furnish a copy of the application to the taxpayers only when specifically requested by the taxpayer.
- b. Prepare the ACCEPT letter (ACC — series of letters).
- c. Select regulations, publications and forms appropriate for this type of operation and check proper boxes in the shaded area of the “Board Use Only” section. See CPPM section 205.040.

INDEX OF FORMS AND PACKAGES USED IN MAIL REGISTRATION**220.020****BOE-400-REQ, Mail Registration Request**

Printed in pads of 50, and used by all personnel to obtain sufficient information so proper application package(s) can be sent to taxpayers.

BOE-400-2 LOG, MailRegistration LogMonth/Year

Printed in pads of 50, and used to monitor application packages sent to taxpayers. Contains space to indicate why a returned application was rejected. Comments and reasons in this space will be evaluated periodically to see whether reasons for rejection are centered on a specific area.

BOE-1009, Notification of Conditional Security Requirement

Form BOE-1009 advises taxpayers no security is required upon issuance of a permit, but security may be required if any of four specific problems occur at a later date.

No taxpayer signature is required.

BOE-400-MIP, Seller's Permit for Individuals and Partners

The application package includes; explanation of reason for permit, an application form, and a listing of Board offices and phone numbers.

BOE-400-MCO, Seller's Permit for Corporation, Organizations, and Limited Liability Companies

The application package includes; explanation of reason for permit, an application form, and a listing of Board offices and phone numbers.

BOE-400-MT, Application for Temporary Seller's Permit

Application covers all forms of ownership. The application package includes; explanation of reason for permit, an application form, and a listing of Board offices and phone numbers.

BOE-400-MCU, Application for Consumer Use Tax Account (TAT SU)

Application covers all forms of ownership. The application package includes; explanation of reason for permit, an application form, and a listing of Board offices and phone numbers.

BOE-400-MCR, Application for Certificate of Registration — Use Tax (TAT SC)

Application covers all forms of ownership. The application package includes; explanation of reason for permit, an application form, and a listing of Board offices and phone numbers.

BOE-400-RJ, Rejection of Application Letter

Applications that cannot be processed because of errors or missing information are returned to taxpayers with Form BOE-400-RJ as a cover letter.

Space has been provided to indicate the reason for the rejection. This form letter is not available through Supply, but is on a MS Word template. The template name is BOE400RJ. Use plain white paper as the template includes the current Board letterhead.

Welcome letter, Acceptance of Application Letter

Applicants to whom permits or accounts are issued receive a personalized letter explaining due dates of returns, and other general information. As with other letters, Welcome letters are on MS Word templates. Use the appropriate letter from the following list:

Template File Name	Application Type	Use
BOE-400-B	BOE-400-MIP/MCO	All Sellers except Temporary
BOE-400-B	BOE-400-MCU	Consumer Use Tax account
BOE-400-B	BOE-400-MCR	Certificate of Registration, Use Tax

ORIGINAL APPLICATIONS**225.000****GENERAL INSTRUCTIONS****225.005**

Registration documents are read by taxpayers and many other persons from permit issuance to final file destruction. There are two very crucial elements to observe when completing any Board document:

- Accuracy
- Legibility

Business Taxes applications have many areas common to all forms. You must be familiar with each of the forms in order to assist the taxpayer in properly filling in the appropriate application. This chapter will explain general policy regarding the preparation of the following sales and use tax application forms:

- BOE-400-MIP Application for Seller's Permit (Individuals and Partners Only)
- BOE-400-MCO Application for Seller's Permit (Corporations, Organizations, and Limited Liability Companies Only)
- BOE-400-MCR Application for Certificate of Registration — Use Tax
- BOE-400-MCU Application for Consumer Use Tax Permit
- BOE-400-MT Application for Temporary Seller's Permit

Applications**225.010**

The Sales and Use Tax Department primarily deals with five application forms as described in the previous subsection. Each of the five forms are covered in detail in the "Programmed Text Workbook No. 1" (PREP 1), The Registration Process, which is provided to participants during the CT-1 training course. The forms are also covered in the mail registration packet.

The instructions included in this chapter of the CPPM generally apply to reviewing and checking the accuracy of each form. Transferring the information from the form to the OnLine Registration System is described in detail in the Client/Taxpayer System (CTS) On-Line Registration User's Guide.

CREATING A DISTRICT OFFICE FILE FOLDER**225.075****General**

The on-line registration system eliminates the need for districts to create a file folder for most new accounts. The information captured with the on-line registration system reduces the need to create files, but does not eliminate the need altogether. There will be instances when a file should be created. Following are guidelines for when a file might be created for certain areas of interest. Keep in mind these are only guidelines and if at any time you feel a folder should be established, by all means do so.

When a file folder is created in the district, you must place a "Y" in the "Dist File" area of the Account Maintenance screen.

Revocations

- Do Not Create A File

Generally, a file will not be created the first time an account is revoked. However, notes should be entered in the comments section of the on-line registration system as to significant actions taken to clear the initial revocation. When a BT-16 is prepared to clear a revocation or the revocation results in a “did not operate” (DNO), a statement to that effect should be made on the comment screen.

- OK To Create A File

If the account becomes revoked again, then a file may be created to store related working papers. Also stored in the file would be a system print of the taxpayer’s most current personal, bank and other information that would be helpful in clearing any subsequent revocations. If the situation warrants, obtain a photocopy of the account registration documents from the Taxpayer Records Unit. Keep in mind that information on the registration system should be the most current information.

Close-Outs

- Do Not Create A File

A file **should not** be created if a close out has no successor, no delinquency, no accounts receivable, no fixtures and equipment to sell and no inventory to dispose of, nor should a file be created for a DNO. Generally, files should also not be created for temporary accounts.

- OK To Create A File

A file **may be created** for closed out accounts that must clear the sale of fixtures and equipment, dispose of any remaining inventory, or be followed up for a possible successor. Any delinquencies or accounts receivable items are tracked by an automated system. The decision to create a file to follow these two items would be up to the district.

Security

- OK To Create A File

The Board’s current security policy would dictate that when security is required, the account or taxpayer has had problems with the Board or is a corporation with limited or no assets. If this is the case, a file may be created for documents to substantiate the basis upon which security was required or guarantees were accepted.

- If You Do Not Create A File

If a file is not created, appropriate remarks must be made in the comments section. Then, the security documents can be block filed in the district security file.

Escrows

- OK To Create A File

A file may be created in unusual circumstances. A file could also be created when the escrow request has been received prior to the closing of the account. If the close out process cannot be completed, the escrow information must be stored until the process can be completed. There may be information that needs to be obtained to successfully close the account out and issue the proper clearances.

- If You Do Not Create A File

If a file is not created, appropriate remarks must be made in the comments section to supplement the close out information screens.

Legal Status Accounts

- Do Not Create A File

When an account goes into bankruptcy, it should be entered on the legal subsystem. If the Board will not file a claim, no file should be created.

- OK To Create A File

When an account goes into bankruptcy and a claim will likely be filed by the Board, a file could be built to store any items pertaining to the account and the bankruptcy or probate.

Collection Status Accounts

- OK To Create A File

A file can be created for any correspondence or information that is gathered and may not be entered onto the Automated Compliance Management System (ACMS).

Audits and Determinations

- OK To Create A File

When an audit is being conducted, or has been completed and the district has not made other arrangements to store the completed audit, a file folder could be created. Some districts currently maintain a separate file folder for completed audits. This practice can continue.

When Compliance Assessments (CAS) are done, a file may be created. There is a compelling reason to create these documents because there is already a problem with the account and creating a Compliance Assessment is a possible solution to that problem. A file may have already been created by the time the Compliance Assessment is prepared.

- Do Not Create A File

There is also no reason to create an account file folder if the audit folder practice is in place.

Miscellaneous

- OK To Create A File

If an account has more than six sub locations "subs," a file may be created. This would help in keeping any changes to those subs in proper perspective. If one or more of the subs were sold, a file folder would be helpful in storing the documentation for those sales.

A file may also be created at any time the need arises.

- Do Not Create A File

You should not create files in every permissible case. This defeats the purpose of having information available on-line. The Board of Equalization's automated systems sit on the Teale Data Center mainframe.

Comments Screen

The Comments Screen of the on-line registration system should be used as a substitute for paper whenever possible.

- If a taxpayer indicates by letter or other method that he or she has changed the business, personal, or mailing address, make the address change to the on-line system and indicate via the Comments Screen the type of change and why it was made.

The Comments Screen is a method of recording the history of an account as the Board moves to eliminate paper files in almost every case.

CODING GRID ENTRIES**230.000****OVERVIEW****230.005**

The application forms that were used prior to express registration and the online registration system used a coding grid to define certain parameters associated with an account. The coding grid is no longer used. However, the grid information is still required and is entered via online registration.

Staff will find that the online registration system offers choices for some of the required coding information. All that is necessary is to make the proper choice and the system enters the information. The background provided in this section is designed to assist staff to make the proper selections.

Subjects within this subsection are generally discussed in the same order they appear across the online registration screen.

TAXABLE ACTIVITY TYPE**230.007**

Taxable Activity Type (TAT) is the business activity that requires a client to register with the Board for a particular tax program. Each TAT has specific rules based on laws and policies administered in whole or in part by BOE and codes that define it. The TAT field will contain SR, SG, SJ, SC, or SU. This field cannot be modified. The addition or subtraction of sublocations will automatically cause the TAT Indicator to be changed. The TAT also determines which type of tax return is to be furnished to the taxpayer.

The TAT Indicator field contains additional information about the account including the number and physical locations of the business. The TAT Indicator denotes which schedules the account needs to properly allocate sales tax funds to local jurisdictions. This field will have the consolidated account indicators X, Y or Z, or the Special Seller code S. The TAT Indicator field is also used as a source indicator for Consumer Use Tax accounts to identify how the information used to establish the account was obtained.

BASIS CODES**230.010**

The entry in this space is the alphabetical code for the reporting basis:

M	Monthly
Q	Quarterly
Y	Yearly
F	Fiscal Yearly
QP	Quarterly Prepayment

BUSINESS CODE**230.020**

Business codes are extremely important to the Board's compliance, audit and administrative programs. The importance of accurate coding cannot be overemphasized.

The business code consists of two digits ranging from 01 through 99. To determine the code, refer to section 203.028 of the Business Taxes CodeBook for a listing of the business codes.

TAX AREA CODE**230.030**

When the proper tax area code must be determined, the online registration system provides more than one choice. Place the cursor on the correct tax area code and press the enter key. If an inlieu entry is also required, the system will prompt you to make that selection.

Following is an explanation of the break down of the tax area code.

Sales and Use Taxes

Tax area codes are used by the Board to distribute local taxes to appropriate jurisdictions and as a basis for developing statistical data. An index of tax area codes may be found in the Business Taxes Code Book and in the Uniform Local Sales and Use Tax Section of the Business Taxes Law Guide.

The tax area code is composed of twelve digits:

1. The first group of five digits consists of a twodigit county code, followed by a threedigit code denoting city or unincorporated area of each county.
2. The second group is a threedigit code identifying any “addon” districts in which the account may be located.
3. The third group is a fourdigit code representing “inlieu” areas, such as redevelopment agencies.

Groups two and three will consist of zeros for locations not within districts or redevelopment areas. Even though the online system provides a choice of tax area codes, to determine the correct code the following is helpful.

For example, Huntington Park might show a tax area code of 19018–036–0001, broken down as follows:

19	018	036	0001
County Code	City Code	“Add-On” Code	“In-Lieu” Code
<i>See Code Book</i>	<i>See Code Book</i>	<i>See Code Book</i>	<i>See Code Book</i>
110.50	110.55 and 110.60	110.65	110.70

City and County Codes

Under provisions of the BradleyBurns Uniform Local Sales and Use Tax Law, the Board of Equalization contracts with local taxing jurisdictions (cities, counties) to collect the local portion of the sales and use tax and remit these amounts to the local entities.

Every city and county has been assigned a fivedigit code for local tax allocation purposes.

The first two digits, from 01 to 59 signify county, statewide or county proportional allocation.

- Codes 01 to 58 identify an individual county in California for local tax allocation.
- Code 59 identifies all counties collectively for statewide allocation.
- Code 59 followed by “999” signifies local tax is proportionately allocated to all counties.

The last three digits in the fivedigit code indicate the specific taxing jurisdiction to receive the local tax.

- If the local tax is to go exclusively to the county indicated by the first two digits, the final three digits will be 998.
- If the tax is to be apportioned among the county and all local tax jurisdictions within the county indicated by the first two digits (countywide allocation), the final three digits will be 999.
- In almost all cases where the final three digits of a tax area code are between 001 and 997, the local taxing jurisdiction is an incorporated city.

AddOn Code

The “addon” portion of the tax area code identifies those tax districts for which an additional (or addend) transactions (sales) and use tax is assessed, such as BART and SCTA. These positions of the tax area code consist of zeros for selling locations not in “addon” districts. Numeric “addon” codes within the tax area code replaced the former alpha Special Taxing Jurisdiction Identifier on January 1, 1986.

InLieu Code

The “inlieu” portion of the tax area code identifies the districts (usually redevelopment agencies) which receive their share of the local tax directly from the Board rather than through the county or city. These positions of the tax area code consist of zeros for locations not within “inlieu” jurisdictions. The codes for each “inlieu” area are consecutively numbered as each new district contracts to have the Board administer the ordinance.

Inlieu codes may be found in Business Taxes CodeBook Section 110.071.

Consolidated Accounts

For consolidated accounts, the allocation system will take information from expanded tax area codes on each sublocation.

Types of Consolidated Accounts

1. All sublocations within the same tax area code, addon code, and inlieu code (all tax area codes for all sublocations are identical):
 - Use SR X Taxable Activity Type
 - Master permit will carry the same tax area code, addon code and inlieu code as its subs
2. Different sublocation tax area codes, addon codes or inlieu codes exist:
 - Use SR Y or SR Z Taxable Activity Type
 - “Addon” and “inlieu” codes will be assigned to each selling location (subpermit) according to its specific business location
 - City portion of the tax area code for the master permit will be “000”
 - If no sublocations are located within a district, use “000” for the master location “addon code”; or,
 - If one sublocation is located within a district, also use the addon code for that specific sublocation as the master location “addon code”; or,
 - If two or more sublocations are located within a district, use “997” as the master location “addon code”; they may, however, be different districts
 - The master permit will have the “inlieu” code of “0000” regardless of how many inlieu codes may be involved on subpermits for the account

See CPPM Section 245.000 for more detailed instructions on consolidated accounts.

OWNER CODE**230.040**

The owner code is generated automatically by the on-line registration system when you choose a client/taxpayer and request a taxable activity registration (TAR). When a client/taxpayer is registered for a Taxpayer Identification Number (TIN) an "Entity Type" code is assigned. This entity type code, which is a one to one relationship to the TIN, generates the owner code automatically.

The chart below illustrates the conversion:

TIN Entity Type	Code	TAR Ownership Type	Code
Unincorporated Business Organizations	B	Unincorporated Business Organizations	B
Corporation	C	Corporation	C
Estate	E	Limited Liability Company (LLC) *	D
Federal Government	F	Estate	E
Other Government (State/Municipal)	G	Federal Government	F
Individual *	I	Other Government (State/Municipal)	G
Jurisdiction	J	Sole Proprietor	S
Limited Partner	L	Jurisdiction (allocation only)	J
Husband and Wife Co-ownership	M	Limited Partnership (LP)	L
Organization / Association	O	Husband and Wife Co-ownership	M
Partnership or Co-ownership	P	Organization / Association	O
Receivership / Fiduciary	R	Partnership or Co-ownership	P
Trust	T	Receivership / Fiduciary	R
Joint Venture	V	Trusts	T
Limited Liability Company (LLC) *	Z	Joint Venture	V

- *The TIN entity type code is not the same as the TAR ownership type code. There is no ownership code for the "Doing Business As (DBA)" and "Historical Name" entity types.*

ORIGINAL STARTING DATE**230.050**

This is a sixdigit code indicating the month, day and year in which the account was originally established. This entry will determine whether or not tax returns need to be furnished to the taxpayer.

LIMITED LIABILITY COMPANIES**230.055**

Effective September 30, 1994, Senate Bill 469 (Beverly), chapter 1200, authorized the formation of a new business entity called a limited liability company (LLC). LLC's afford its members the same legal liability protection as shareholders of a corporation. A LLC shares characteristics of both partnerships and corporations. LLC's formed under California statutes are considered domestic LLC's. Foreign LLC's are organized under the laws of any other state, the District of Columbia or under the laws of a foreign country.

LLC's required to register with the Secretary of State must file Articles of Organization which set forth:

- The name of the LLC
- A statement of purpose.
- The name and address of agent for service of process.
- A statement as to how the LLC is to be managed.

Requirements

- Foreign LLC's may be exempted from registering with the Secretary of State if not "transacting intrastate business" as defined in Corporations Code section 17001. This should not be confused with the definition of "retailer engaged in business in this state" under Revenue and Taxation Code section 6203 which remains a determining factor in whether a Foreign LLC (an LLC organized in another state such as Texas and Delaware) is engaged in business in this state.
- Foreign and Domestic LLC's may have only one member.

Organization

- The Articles of Organization may provide that the LLC shall be managed by one or more managers who may, but need not, be members or natural persons. If no manager(s) is designated, management is vested with the members.
- Manager's fiduciary duties to the LLC and its members are those of a partner to a partnership.
- In addition to managers and members, an LLC may have officers who may, but need not, be a member or manager. Appointment of officers shall be specified in the Articles of Organization or in an operating agreement.
- Regular meetings of members or managers are not required unless expressly called for in the articles or operating agreement.

Authorization to Transact Business

- Upon registration with the Secretary of State, foreign and domestic LLC's are authorized to transact business in this state. Therefore, Revenue and Taxation Code section 6005 was amended by this legislation to include limited liability company in the definition of "person".
- Additionally, R & T Code section 6829 was amended to provide that any officer, member, manager, or other person having control or supervision can be held personally liable for sales tax to the same extent as corporate officers upon termination, dissolution, or abandonment of a domestic or foreign LLC business.
- This legislation also provides that both the Secretary of State and the Franchise Tax Board shall have the authority to suspend the powers, rights, and privileges of an LLC for violating certain provisions of the Corporations Code and the Revenue and Taxation Code respectively.

Articles of Organization, LLC-1 and LLC-12

- The Articles of Organization, LLC-1, does not include the names of managers and members. Accordingly, the applicant must provide all required information regarding managers and members at the time of registration.
- The best source for manager/member information is the Secretary of State's Limited Liability Company Statement of Information, Form LLC-12. The form must be filed with the Secretary of State within 90 days of the filing of the Articles of Organization.
- If the applicant has the LLC-12 but it has not been filed with the Secretary of State as evidenced by the Secretary of State's bar code and LLC number in the bottom right hand corner of the form, the applicant should be instructed to send us a copy of the form after it has been filed.
- If the applicant does not provide a copy of the LLC-12 within 90 days, a copy of the LLC-12 should be obtained by contacting the Secretary of State's LLC Unit, P.O. Box 944228, Sacramento, CA 94244-2280, Telephone (916) 653-3795.

Completing the Application

- The BOE-400-MCO/MIP will be used to issue seller's permits.
- To minimize confusion, the tax technician should ascertain the type of ownership prior to providing the taxpayer with an application and assist the taxpayer in completing the BOE-400.
- Articles of Organization (Form LLC-1 for domestic LLC's or Form LLC-5 for foreign LLC's) should accompany applications.
- The LLC form must have the Secretary of State's bar code and LLC number at the lower right-hand corner of the form.

Single LLC's

- Application Form BOE-400-MCO will be used to register a single LLC as the permittee.
- Check Limited Liability Company (LLC) as the type of ownership in Box Number One.
- Enter the full LLC name as it appears on the Articles of Organization in Box Number Two.
- Box Number Three will be completed as usual.
- Enter the LLC number in Box Number Four and identify accordingly.
- Boxes Five through Eleven will be used for information on managers and members. If, according to the Articles of Organization, the LLC is to be managed by one or more managers, obtain complete data on the manager(s) and use additional sheets as necessary to list the member as you would for limited partners.
- If management is vested in the members, obtain complete data on all the members.
- If a manager is other than a natural person, i.e., a corporation, enter the name on Line Number Five, the BA on Line Number Six and skip Lines Seven, Nine and Ten.
- Use a separate sheet to list corporate number and officer information in these situations. The balance of the application should be completed as usual and all applications need to be signed by the manager or managers, as the case may be.

Managers

- If the Articles of Organization designate that one or more managers will run the business affairs of the LLC, their names should be entered.
- If the manager(s) are also members, they count towards the one-member minimum for domestic LLC's.
- If there is one manager or more than one manager who are not members, you must still enter one member in addition to the manager(s) because LLC's are required to have at least one member.
- If management is vested in the members, complete personal information on all members should be entered.

LLC's As General Partners

- When registering a partnership between an LLC and another entity, such as a corporation, use application Form BOE-400-MIP.
- Whenever a "partner" is not a natural person, Boxes Three through Eleven do not apply. Attach a separate sheet to include information on additional partners, including the respective managers, members, or corporate officers of each partner entity.

Account Maintenance Issues

The first to occur of the following events will trigger the automatic dissolution of an LLC and may require follow-up at the district level to determine the proper closeout date:

1. At the time specified in the Articles of Organization.
2. Upon the happening of events specified in the Articles of Organization or a written operating agreement.
3. By vote of a majority in interest of the members, as may be specified in the Articles or Organization or a written operating agreement.
4. Except as otherwise provided in the Articles of Organization or a written operating agreement, upon the death, withdrawal, resignation, expulsion, bankruptcy, or dissolution of a member unless the business of the limited liability company is continued by a vote of all the remaining members within 90 days of the happening of that event.
5. Entry of a decree of judicial dissolution.

Districts should be cognizant of these events when conducting routine account maintenance, or when an LLC is being worked for a delinquency/accounts receivable/revocation or bankruptcy.

Security

Because of the limited liability of managers and members, security deposits will be required from all LLC's that meet the \$500 minimum, unless the LLC has sufficient interest in real property in this state to obviate that necessity. See CPPM Chapter 4.

UNINCORPORATED BUSINESS ORGANIZATIONS (UBO)**230.056****General**

A business trust might be called a California Business Trust (CBT), Unincorporated Business Organization (UBO), Massachusetts Trust or common law trust. Section 6005 defines a "person" to include a "trust" and "business trust." This type of trust is an unincorporated business in which the business assets are owned or held in the name of trustees and are operated or managed by them for the benefit of holders of certificates of beneficial interest in the trust.

The relationship between trustees and the trust is similar to that of partners to a partnership. Trustees are personally liable for the sales tax liabilities of the trust and should be so advised. As stated in **People v. Sischo** (1939) 31 Cal. App. 2d 345, trustees are personally liable for taxes even if the trust instrument contains provisions that trustees are not to be so held. In a true business trust, the beneficiaries are not personally liable for obligations incurred by the trustees, however, if the trustees are subject to the control of the beneficiaries the so called "trust" is in fact not a trust and the beneficiaries may be liable as partners.

Requirements

A copy of the "Trust" document must be obtained. This document needs to be carefully examined to determine what property is involved, who the beneficiaries are and who the trustees are. If a copy of the written agreement establishing the requirements for a UBO will not be furnished, the Board should assume the entity is a general partnership and may issue a permit to the general partnership.

UNINCORPORATED BUSINESS ORGANIZATIONS (UBO)**(CONT.) 230.056****On-Line Registration Policy**

For UBO's, the entity code is B, the owner code is B, the relationship code for the beneficiary is B, and the relationship code for the trustee is T.

The trustees are to be regarded as partners in the business with the other trustees and the trust, and should be registered as "XYZ Trust and Joe Smith and John Amos individually and as Trustees of said Trust". If the UBO does not have a name the permit should be issued in the name of the trustee(s) "as trustee(s)" for example, Joe Smith, Trustee and John Amos, Trustee.

Each trustee should provide personal asset information and be advised that each trustee will be liable for the full business liability.

Security

If the Board requests security on a UBO account, it is to be posted by the trustee(s) as an individual(s). The trustee and the name of the UBO is required to be listed on a surety bond if a written agreement establishes the name of the UBO.

ACCOUNT CHARACTERISTIC CODE**230.060**

This field is where miscellaneous information about each account will reside.

Sales Tax Accounts

Account Characteristic Codes (Acct Char) are used to indicate additional characteristics of a given account (i.e., part-time, temporary, etc.) Acct Char codes are as follows:

01	is a retailer who is temporary
02	is a retailer who is part time
03	is a retailer who sells fuel
04	is a retailer who sells fuel and is also a fuel broker
05	is a retailer who sells fuel and is also a distributor
06	is a retailer who sells at temporary locations (Swap meets, Flea Markets and Auctioneers who meet the \$500,000 criteria)
07	is a retailer who has a warehouse location(s)
08	is a retailer who is voluntarily filing SC (Certificate of Registration — Use Tax)
09	is a retailer who is a vehicle lessor (Section 7205.1)
10	is a retailer who has a Manufacturer's State Tax Exemption Certificate
11	is a retailer who has signed a request for a permanent extension (usually a government entity) and will be tied to a TAR code
12	is an auctioneer or out-of-state retailer with sales or use tax exceeding \$500,000 (Regulations 1802)
13	is a government entity that has a permit to report and pay use tax directly (Sections 7051.1, 7051.2 and 7051.3).
14	is a non-government entity that has a permit to report and pay use tax directly (Sections 7051.1, 7051.2 and 7051.3).
17	voluntary disclosure
18	1032 Program account
19	AGMT Partnership (RUPA Agreement)
998	Not available for purge
999	is an Arbitrary account

Consumer Use Tax Accounts

Make NO ENTRIES in the Account Characteristic Code for Consumer Use Tax accounts.

ACCOUNTANTS' MAILING CODE**General**

Returns may be mailed in bulk directly to accountants servicing five or more taxpayers. These accountants are assigned tax return mailing code numbers ranging from 00001 to 99989.

When an accountant is assigned a mailing code number or the mailing address of an accountant already assigned a number changes, the Account Analysis & Control Section will update the accountant information via the online registration system.

Issuance of Accountant's Code

In order to obtain an accountant's mailing code, an accountant must submit a request showing the name and account number of five or more taxpayers whose returns he/she is to receive, along with signed authorization from each taxpayer asking that the returns be mailed to the accountant. Form BOE-91, Permittee Authorization to Send Tax Returns to Accountant, is designed for this purpose; however, a letter from the taxpayer indicating their account number, the name and address of the accountant and the mailing code number assigned to the accountant may be accepted in lieu of Form BOE-91.

Authorizations taken in the field should be forwarded to Headquarters Account Analysis & Control Section. Existing accounts must have the accountant's code added or changed by the Account Analysis & Control Section. All requests to add or alter the Accountant Code file must be submitted to the Account Analysis & Control Section.

Accountant Closes Practice

When Headquarters is notified that an accountant is no longer in business, the Account Analysis & Control Section will cancel the accountant's code number. The accountant code will be removed from the taxpayer's registration record.

Accountant Change of Ownership

If an accounting business has a mailing code number and subsequently changes ownership, the new owners may not retain the code number. The new accounting firm owners must obtain new authorizations (BOE-91 or equivalent) from their clients and apply for their own mailing code number.

Mail Distribution

Explain to both the accountant and the taxpayer that only returns will be mailed to the accountant for an account having the accountant exception code. All other mail will be sent to the mailing address of record for the taxpayer.

EXTENSION CODE: PERMANENT EXTENSION OF TIME GRANTED TO CERTAIN POLITICAL SUBDIVISIONS

This is a general one-month extension for California state and local governments including municipalities and local schools of this state. The extension is indicated by Entity Type G on the Client Taxpayer Systems (CTS) and owner code G on the Taxable Activity Registration (TAR). The one-month blanket extension is also granted to the Department of Finance for all state agencies. Interest will not be assessed against a state agency providing it files its sales tax or use tax claim with the State Controller on or before the due date of the tax return. (See CPPM 535.060.)

TAXABLE ACTIVITY REVIEW CODE**230.091**

The Taxable Activity Review Code field (Tar Cd) contains information utilized by the Return Analysis Section to indicate important information about an account (e.g. an allowed labor deduction, an account with a history of dishonored checks, etc.).

BRP (BASIS REVIEW PROTECT CODES)**230.095**

Annual basis reviews examine the payment history of all sales and use tax accounts to determine if they are assigned the proper reporting basis. The average amount of tax paid over the most recent 12 months determines the reporting basis. The annual reviews are initiated automatically, and selected taxpayers receive computer-generated letters advising of changes in their reporting basis. Changes in reporting basis are made without field office review.

Also, in March of each year, there is a review of the Accounts Reporting No Sales which identifies accounts that have not reported sales in the past year. This review initiates a letter to each taxpayer identified advising that their permit will be canceled unless they respond and establish to the Board's satisfaction that their permit is still required.

Because all the basis reviews and the review of accounts not reporting sales are automatic, it is advantageous to have a method of excluding individual accounts from the annual reviews.

Basis Review Protect Codes and Descriptions

Codes entered in the BRP on-line registration field are used to exclude an account from certain annual basis reviews. This field is displayed after the district file code field on the registration screen. There are three different codes available to exclude an account from review. The actual on-line assigning of BRP codes requires a security level 3 (supervisor or designee) in order to ensure a second controlled review before an account is removed from prepayment status or has a BRP assigned. Only one code can be assigned to an account as follows:

- Alpha character **"A"** will exclude an account from all annual reviews except the Annual Sales Tax Prepayment Basis Review. Code "A" may be appropriate for an account assigned a more frequent reporting basis for collection purposes that would otherwise automatically be assigned a less frequent basis. An account legally required to retain a permit which is not presently making sales would be another example. The account would otherwise be identified for possible closeout each year.
- Alpha character **"B"** will exclude a sales tax account from the Annual Sales Tax Prepayment Basis Review only. An account coded "B" will be included in all annual reviews except the prepayment basis review. Code "B" may be appropriate for an account with a taxable sales pattern with one excessively high month or quarter that causes their average monthly taxable sales for the test period to exceed the \$17,000 prepayment threshold. A college bookstore might be an example. A gasoline seller who clearly qualifies for an exclusion from prepayment under §6471.4 might also appropriately be coded "B".
- Alpha character **"C"** will exclude an account from all annual reviews. Accounts coded "C" might include out-of-state voluntary Certificate of Registration — Use Tax accounts which have requested a particular reporting basis.

BRP (BASIS REVIEW PROTECT CODES)**(CONT.) 230.095****Assigning Codes**

BRP codes should only be assigned in cases where it is clearly established that a particular reporting basis is desirable and/or necessary for efficient control of the account. A taxpayer's desire to remain on a particular reporting basis should not, in and of itself, be reason to exclude an account for review.

Annual List of Accounts with BRP Codes

Annually, each district administrator will receive a list of all accounts in their district, which have a BRP code. The list is informational only and will not require a response.

REPORTING BASIS**235.000****SALES TAX PREPAYMENTS****235.010****Criteria**

- Upon written notification by the Board, any taxpayer who has an estimated measure of sales and use tax liability (taxable sales) of \$17,000 or more per month, as determined by the Board, must make prepayments regardless of the volume of taxable sales, until notified by the Board to discontinue prepayments. Retailers of motor vehicle fuel are not required to make prepayments to the Board if 75% of the taxpayer's gross receipts are from the sale of motor vehicle fuel, as the fuel distributor is required to pre-collect a portion of the sales tax from the retailer (Pursuant to Revenue and Taxation Code section 6471.4).
- Any taxpayer with an average sales tax liability of \$20,000 or more per month must make their prepayments via the Electronic Fund Transfer (EFT) process. EFT Prepayment forms are not required to be filed and are not provided to the taxpayer, although the payment is still due timely (see CPPM 235.035).
- An account must always be placed on a quarterly prepay reporting basis when the anticipated volume of business indicates prepayments will be required.
- The taxpayer will be given a Form BOE-1241-C, Notice of Prepayment Status, that explains the requirements in regard to the filing of prepayments and serves as a written notification the account has been placed on a prepayment basis.

Changing From Prepayment Reporting Basis

- If the account meets the criteria for prepayment status, it will not be changed to a different reporting basis without good reason.
- Moreover any change would be temporary as all accounts (except those with BRP Code B) qualifying for prepayment are automatically placed on prepayment basis each January 1.
- If the account meets the criteria for EFT, the account may be removed from prepayment status only when the average sales tax liability for the prior 12 months drops below the \$20,000 level and the taxpayer submits a written request to be removed from the EFT program. If the taxpayer does not make the written request, but remains below the \$20,000 threshold, the account will remain in EFT status, however the account will revert to a voluntary EFT account rather than a mandatory EFT account.

LATE APPLICATION FOR A SELLER'S PERMIT — PREPAYMENT ACCOUNT 235.015

If the seller applies for a permit prior to the starting date, the effective date of the prepayment status is always the date the seller actually starts business.

Normally, sellers who qualify for a prepayment status and apply for a seller's permit after the date business started will be placed on a "regular" quarterly reporting basis and changed to prepayment status effective the first day of the succeeding quarter. However, they may be placed on prepayment status immediately if:

- It would not cause the account to be delinquent, and
- The taxpayer agrees that no personal hardship would ensue.

Form BOE-1241-C, Notice of Prepayment Status, will be given to the taxpayer at the time of application showing the effective date of prepayment. The taxpayer should also be informed of the reason he/she was not placed on a prepayment status as of his/her starting date, if that is the case. The online registration system is date sensitive, therefore an account may initially be placed on a regular quarterly reporting basis while the prepayment indicator may be placed in the reporting basis field using a future effective date.

REPORTING BASIS GUIDELINES**235.025****Sales Tax Accounts**

Sales tax accounts with start dates between July and December, which would qualify for yearly basis, should be assigned a fiscal yearly basis (F). Fiscal yearly accounts report on a fiscal year that begins July 1 and ends June 30 of the following year, with returns due on or before the last day of July following the close of the fiscal year.

Although the following guidelines should establish most reporting bases, Board personnel should be flexible if taxpayers request an alternative reporting basis, with the exception of the Quarterly — Prepayment reporting basis guidelines which is set by statute. A taxpayer with a history of delinquencies or accounts receivable would not normally be placed on a less frequent reporting basis than indicated by the guidelines. However, a taxpayer on a monthly reporting basis, for example, with a good payment record should not be automatically denied a request to report on a quarterly basis.

GUIDELINES

Anticipated Tax Accrual PER MONTH	Assign Reporting Basis
\$0 to \$100	Y (Yearly) or F (Fiscal Yearly*)
\$101 to \$300	Q (Quarterly)
\$301 to \$1,200	M (Monthly)
\$1,201 to \$19,999	P (Quarterly Prepayment)
\$20,000 and over	P (Quarterly Prepayment)

- *Sales tax accounts with start dates between July and December, which would qualify for yearly basis, should be assigned a fiscal yearly basis (F).*

ELECTRONIC FUNDS TRANSFER PROGRAM (EFT)**235.035**

Under RTC section 6479.3, *Electronic Funds Transfer Payments*, the BOE implemented an Electronic Funds Transfer (EFT) process. The EFT Team in the Return Analysis Unit is responsible for any sales and use tax inquiries regarding the EFT program that the district offices cannot handle. The EFT Team may be contacted by:

1. Telephone at (916) 327-4229.
2. FAX at (916) 322-8457.

Inquiries sent by U.S mail should be addressed to Board of Equalization, EFT Group, MIC:35, P.O. Box 942879, Sacramento, CA 94279-0035.

Payment Methods

The two methods routinely used for EFT payments are:

- ACH Debit This method allows the taxpayer to transfer funds by authorizing the BOE to electronically debit the taxpayer's designated account for the amount that the taxpayer reported to the BOE for a specified period.
- ACH Credit This method allows the taxpayer to transfer funds by authorizing their financial institution to credit the BOE's bank account for the amount due for a specified period.

In addition to the ACH Debit and ACH Credit, a third EFT payment method called a "Fedwire" exists as well. The Fedwire transfers funds instantaneously but does not transfer data. The Fedwire is available as an EFT payment method only in emergency situations and only with the prior approval of the EFT Team.

Program Requirements

Effective January 1, 2006, taxpayers with average monthly sales and use tax liabilities of \$10,000 or more are required to pay by EFT. (Note: voluntary participants (accounts with TAT "SC" and Account Characteristic "8") are not required to file by EFT, even though these accounts may meet the mandatory EFT threshold.

In 1993, taxpayers whose estimated monthly tax liability was less than \$50,000 were able to participate in the EFT program on a voluntary basis with BOE approval by filing an authorization agreement with the EFT Team. Voluntary EFT filers were required to participate in the EFT program for a minimum of twelve months. Effective January 1, 2006 when the mandatory participation threshold was lowered to \$10,000, the twelve-month requirement for voluntary EFT filers was removed. However, filing an authorization agreement is still required.

Once enrolled in the EFT program, all participants, mandatory and voluntary, must continue to make their tax payments by EFT until they receive written notification from the BOE giving them an effective date to withdraw from the program.

The Revenue subsystem records in IRIS are reviewed annually to identify mandatory EFT participants. When the annual review for mandatory EFT participation is conducted, the IRIS system identifies those accounts in the EFT process that have dropped below the mandatory participation threshold. To be considered for removal from EFT status, the account must average less than the threshold amount (\$10,000) for twelve months. If this condition is met, the taxpayer will receive written notification that the account is being removed from mandatory EFT status. The taxpayer will have the option of remaining in the program as a voluntary participant or withdrawing completely. Requests to withdraw must be submitted in writing to the EFT Team.

ELECTRONIC FUNDS TRANSFER PROGRAM (EFT)**(CONT. 1) 235.035****Due Dates**

The EFT program has no effect on the due date for filing tax returns. All tax returns must be postmarked on or before the due date specified. Taxpayers who participate in the EFT program and file on a prepayment basis are not required to file prepayment forms. However, they must make sure to pay their prepayment amount via EFT prior to the prepayment due date to avoid being assessed a penalty.

Payments made using the ACH Debit system can be made on or before the period due date. If payment is reported on the period due date, it must be completed by 3:00 p.m. Pacific Time for timely transfer into the state's bank account. EFT payments under the ACH Debit system can be requested up to 60 days in advance of the due date and "warehoused" until the release date specified by the taxpayer.

Payments made using the ACH Credit system may take longer to process. Taxpayers should confirm with their financial institution when to initiate the EFT process so that the BOE's bank account receives the taxpayer's payment timely.

For an electronic payment to be timely, the transferred funds must transfer into the BOE's bank account by the first banking day following the tax due date. The IRIS Payment subsystem reflects both the effective date and the transfer date for EFT payments. This information is used to determine whether or not the payment was received timely.

Registration

Applicants for participation in the EFT program must complete Form BOE-555-EFT, *Authorization Agreement for Electronic Funds Transfer*, and submit it to the EFT Team. These application forms may be obtained from Publication 80, Electronic Funds Transfer Program Information Guide, the BOE's Supply Unit at MIC:10, or on the BOE's website located at <http://www.boe.ca.gov/pdf/boe555eft.pdf>. If approved, the taxpayer will receive a confirmation letter and further information regarding the payment method chosen.

Applicants choosing the:

ACH Debit. Complete sections I and II of Form BOE-555-EFT and submit the form together with a voided check for the bank account from which the EFT payments will be debited. If the applicant is unable to provide a voided check, a bank specification sheet may be used instead. The specification sheet may be obtained directly from the taxpayer's bank.

ACH Credit. Complete sections I and III of Form BOE-555-EFT.

Headquarters Responsibility

Each year, IRIS automatically generates the reports used by the EFT Team to conduct the annual mandatory participation review. Based on the review, Publication 80 is mailed to all the accounts that meet the EFT criteria along with a cover letter containing the EFT requirements and the amount of time within which to return the agreement.

The EFT Team will review the authorization agreements and then enter approved agreements into IRIS, which will generate a confirmation letter and reflect the EFT start date. The EFT Team will forward the authorized agreements to the Taxpayer Records Unit when all necessary action is completed.

District Responsibility

The following types of accounts will receive Publication 80 from the field offices when registering for a sales tax permit. All other accounts will be identified for EFT registration through the annual participation review in Headquarters.

1. New successor accounts where the predecessor was on EFT as a mandatory participant and the successor purchased enough of the predecessor's locations to qualify as a mandatory participant who meets the minimum threshold requirements.
2. Ownership changes of substantially the same ownership, e.g., sole owner to corporation, if the prior account was on mandatory EFT.
3. Voluntary EFT taxpayers.

The field offices must notify the EFT Team immediately when items 1 and 2 above occur and supply both the taxpayer's name and account number along with the predecessor's name and account number.

EFT authorization agreements received in the field offices will be forwarded immediately to the EFT Team.

Applicant

A new authorization agreement is required when there is a:

1. Change payment methods (i.e., ACH Debit to ACH Credit).
2. Change of financial institution.
3. Change of designated bank account number.
4. Change of designated bank routing number.
5. Change of EFT contact person or telephone number.

The taxpayer must contact the EFT Team as soon as possible when making any of these changes.

System Information

When a taxpayer is participating in the EFT program, the following information will be available in IRIS on the Taxpayer Activity Registration System Account Inquiry (TAR AI) screen:

1. EFT Mandatory – Debit.
2. EFT Mandatory – Credit.
3. EFT Voluntary – Debit.
4. EFT Voluntary – Credit.

When a taxpayer is participating in the EFT program, the TAR AI screen will indicate an EFT identifier (>). The EFT Inquiry screen may be accessed by placing an “M” on the identifier. The EFT Inquiry screen contains basic information regarding the authorization agreement, EFT effective dates and EFT registration information. Banking information will be updated by the EFT Team upon receipt of a new authorization agreement when changes occur.

EFT payments will be posted on the Payment Subsystem in addition to the return information. To determine if a payment was made by EFT, you should go to the “PAY BA” screen or “PAY EA” screen. Place an “M” in the action field of the payment and press “Enter.”

EFT comments may be accessed from the EFT Inquiry screen. If EFT comments are available, it will be noted in the upper right-hand corner of this screen. Information regarding explanation of penalty assessments, penalty relief requests, etc. may be found here. Only the Return Analysis Unit can update the EFT comments for sales and use tax accounts. The Property and Special Taxes Department can update special taxes account comments relating to EFT.

Penalties

RTC section 6479.3 limits the penalties imposed to a maximum of ten percent of the taxes due for any one tax return, exclusive of any prepayments. There are a variety of ten percent penalties that may be imposed on a tax return. The following information explains the type and circumstances when penalties are assessed.

Failure to Pay Taxes by EFT

For taxpayers required to pay by EFT, payment made by any means other than EFT (i.e., cash, credit card, or check) is subject to a ten-percent penalty for the non-EFT payment. All payments against future return payments and prepayments that are not made through EFT are also subject to this penalty. Therefore, all return payments and prepayments must be made through EFT to avoid this penalty, except in the case of persons who do not meet the EFT requirements and voluntarily sign up to pay their taxes via EFT.

Failure to File a Timely Tax Return

If a return is not filed on a timely basis, even though the EFT payment may have been paid timely, a ten percent penalty on the taxes that are due for the reporting period, excluding prepayments, will be assessed.

Late EFT Payment

If the EFT payment (other than prepayments) is not timely, the taxpayer will be assessed a ten percent penalty and applicable interest charges.

Late EFT Prepayments

Under RTC section 6479.3, if a prepayment is not timely or is not remitted by the appropriate EFT method, but the prepayment is made on or before the due date for the quarterly tax return, the taxpayer will be assessed a maximum six percent penalty. For example, if a check is received for the January prepayment after February 24 but prior to the first quarter (1st Qtr) tax return due date of April 30, a six percent penalty is assessed. If a timely prepayment is made by means other than EFT, a maximum six percent penalty is imposed. If the prepayment is made after the due date of the quarterly return, the taxpayer is assessed a maximum ten percent penalty.

Relief of Penalties

Since RTC section 6479.3 allows multiple penalties to be assessed to a taxpayer's account, e.g., failure to file timely and failure to pay by EFT, a taxpayer who requests relief from multiple penalties must provide a separate reason why relief should be granted for each separate penalty assessed using Form BOE-735, Request for Relief from Penalty.

If the taxpayer indicates that payment by EFT was timely but the BOE's records show it was late, the taxpayer may file Form BOE-129-EFT, *EFT Transmission Declaration*, certifying under penalty of perjury that the payment in question was transmitted on time. Form BOE-129-EFT is available at <http://www.boe.ca.gov/pdf/boe129eft.pdf>.

If Return Analysis Unit staff concludes that an EFT payment was timely, the account records will be adjusted to show that no late penalty or interest is due. It may be necessary to examine the taxpayer's books or bank statement to determine whether an EFT payment was transmitted timely.

Non-Payment Report

The EFT Non-Payment Report is generated automatically by IRIS on the fourth working day after the due date of the payment and can be viewed in the IRIS PAY DI screen. The EFT Non-Payment Report provides the in-state district staff with those accounts where a payment has not been received, as well as accounts that are missing prepayments and accounts with a return or returns that have not been filed.

The procedure for using this report is as follows:

1. To determine if payment has been posted, check the account using REV FZ in IRIS.
2. To determine if unapplied credits exist, check the account using DIF DA and/or PAY BU.
3. Check the EFT Comments screen to determine if the taxpayer has contacted the EFT Team regarding payment arrangements for the period in question.

If the taxpayer indicates payment has been made, it is possible that either the taxpayer or their bank has made an error on the addenda record, which is preventing the payment from posting to the proper account. The EFT Team will notify them of the type of error made when the EFT Team corrects the entry. If payment arrangements do not appear to have been made, the taxpayer should be contacted. If the taxpayer indicates payment has not been made, he or she should be instructed to do so immediately through the EFT program.

Occasionally an account may appear on the report but the payment is reflected when the Revenue Subsystem (REV FZ) is checked and a Return Analysis Unit adjustment is indicated on the "REV SV" screen or the "REV RE" screen for that period. This will occur when the EFT Team has had to manually move the payment after the report was generated to the proper account because the addenda record was incorrect. No action needs to be taken on these.

ELECTRONIC FUNDS TRANSFER PROGRAM (EFT)**(CONT. 5) 235.035**

When the taxpayer designates the prepayment period erroneously (i.e. prepayment 2 instead of prepayment 1), please notify the EFT Team by utilizing Form BOE-103, Adjustment Request Memorandum.

When a taxpayer with multiple account numbers processes a payment under only one account number, please notify the EFT Team with the account number reflecting the payment and other accounts the payment covers.

Questions regarding this report should be directed to the EFT Team.

Non-Remittance Report

IRIS generates the EFT Non-Remittance Report on the twenty-eighth day of each month and notifies the EFT Team of those accounts that have filed a return where no remittance or a partial remittance has been received. The EFT Team reviews the list and attempts to match the payments that have not been properly posted to a taxpayer's account for the tax return in question. Accounts that appear to have a valid non-remittance or partial remittance for a return period are billed accordingly. Questions regarding this list should be directed to the EFT Team.

Miscellaneous

SC Accounts: Certain SC accounts are not required to participate in the EFT program. Direct any questions regarding which SC accounts are involved to the EFT Team.

Tracing a Payment:

Occasionally, it may be necessary to trace an EFT payment. Taxpayers reporting through ACH Debit will be furnished with a reference number with each transaction. The taxpayer should contact the EFT Team with the reference number and other payment information for the payment in question and the EFT Team will work with the taxpayer and the BOE's bank to trace the date and time of payment.

Taxpayers reporting through ACH Credit must work directly with their bank to trace a payment. The EFT Team is not able to assist the taxpayer in these cases.

Zero Amount Due

Although no tax may be due for a given period, an EFT transaction must still be made. The taxpayer should be instructed to indicate a zero dollar amount. For ACH credit accounts, a brief letter indicating no tax due for a given period may be faxed to (916) 322-8457.

First Payment

When a taxpayer enters the EFT program, the first payment due after the effective date must be made through EFT. For example, if the effective date were January 1, 2006 the first payment due through EFT would be the fourth quarter (4th Qtr) or December 2005 return.

Last Payment

When an active account is removed from participation in the EFT program, the last payment due through EFT would include those periods due prior to the effective date of the change. For example, if the taxpayer is removed from the EFT program effective December 31, 2005, the November 2005 prepayment is the final payment due through EFT.

When an account participating in the EFT program closes out, the final return is due through EFT.

REGULAR REPORTING BASIS**235.065**

Regular reporting basis is one that is concurrent with the calendar month, quarter or year. For example, the full month of January, the full first quarter of January, February and March or the full year, beginning January 1 and ending December 31.

A regular fiscal year basis is one that would begin July 1 of any year and end June 30 of the next year.

(See CPPM Subsection 235.025.)

SPECIAL REPORTING BASIS**235.070**

Some sellers may request to report on a special basis. For example, instead of reporting for a calendar month of January, the seller may wish to report for the period December 27, 2001 through January 26, 2002. In this case, a special monthly basis may be assigned.

Special monthly, quarterly or yearly basis may be assigned to a seller. However, before this can be done, a request to be placed on a special reporting basis must be submitted to the Account Analysis and Control Section. A proposed twoyear reporting calendar must also be submitted for review. If approved, the special reporting calendar will be input in the online registration system so the taxpayer receives timely returns.

DIFFERENT CLASSES OF SALES TAX ACCOUNTS**240.000****OVERVIEW****240.005**

Sales and use tax Taxable Activity Types allow both single outlet accounts, consisting of a single selling location, and multiple outlet accounts, consisting of two or more selling locations. Single outlet accounts are discussed in this subsection. Multiple outlet accounts, called “consolidated accounts,” are discussed in CPPM Subsection 245.000.

SINGLE OUTLET ACCOUNTS**240.010**

Four types of single outlet sales tax accounts exist:

1. Regular sellers, Taxable Activity Type code **SR**
2. Classified sellers, Taxable Activity Type code **SR**
3. Special sellers, Taxable Activity Type code **SR S**
4. Temporary sellers, Taxable Activity Type code **SR (Acct Char Code 001)**

Regular Sellers, Classified Sellers and Special Sellers differ from each other only in the manner in which local tax is handled. Temporary Sellers differ from the other three in length of operation. A decision table to assist you in determining which Taxable Activity Type to use for single outlet sales tax accounts may be found in CPPM Section 240.035.

REGULAR SELLERS**240.020**

Single outlet accounts requiring no special allocation of local tax and no special or supplemental tax returns or schedules are considered regular sellers. These accounts constitute the majority of sales and use tax accounts administered by the Board.

CLASSIFIED SELLERS**240.030**

Classified sellers are single outlet sales tax accounts, but due to the nature of business, require special allocation of local taxes by the Board. The Board has determined that classified sellers with local tax amounts less than \$600 per year do not require special schedules or tax returns to be prepared by the taxpayer. The Local Tax is allocated based upon statistical analysis. Examples of “classified sellers” might include construction contractors, mobile auto repair facilities, vending machine owners, doortodoor sales, and persons who regularly conduct business in various temporary locations.

If an account originally coded as a classified seller increases in taxable sales volume beyond the \$600 annual local tax threshold, the account becomes a Special Seller, and is required to break down sales by county. See CPPM Subsection 240.040 for additional discussion of special sellers.

Classified sellers’ permits are coded SR, with the third through fifth digits of the area code ending in “999.” The “999” codes flag the account for further distribution of local taxes. For example, a classified seller in Ventura County would have an area code of 56-999-000-0000.

Additional discussion of specific types of classified sellers may be found in CPPM section 255.000, et seq.

DECISION TABLE — SPECIAL SELLERS, CLASSIFIED SELLERS**240.035**

Single Outlet Codes for:

Area Code, Local Tax Code, Taxable Activity Type, Office Code

CONDITION	A	B	C	D	E	F	G	H
Auctioneer or Construction Contractor	Y	Y						
Itinerant Vendor or Vending Machine Operator			Y	Y				
Sellers who purchase ex-tax for use at locations not requiring a permit					Y			
Out-of-state seller with in-state business address*						Y	Y	
Seller located in fringe area**							Y	Y
Out-of-state or fringe area seller with NO in-state business address								Y
Local Tax LESS than \$600 per year		Y						
Large scale business with installations in 2 or more counties			Y					
ACTION	A	B	C	D	E	F	G	H
Enter Taxable Activity Type SR S	X		X		X		X	X
Enter Taxable Activity Type SR		X		X		X		
Third through fifth digits of area code are 999		X		X			X	X
Area code to in-state business location	X		X		X	X		
Use office code of OH, OHA, OHB, or OHC						X		X
Use office code of fringe area office								X
Use office code of in-state office responsible for business address							X	

For additional guidance for accounts with books and records out of state or in fringe areas see Section 270.000.

SPECIAL SELLERS**240.040**

Special sellers, like classified sellers, are also single outlet accounts requiring further allocation of tax by the Board. Special sellers:

- Require sales tax returns containing Schedule B, Allocation by County of Local Tax, normally due to local tax exceeding \$600 per year.
- Special sellers' permits are coded SR S; it is this code which determines whether tax returns containing Schedule B are sent.
- Special seller taxpayers must complete Schedule B, detailing by county where taxable sales were made. These returns are then manually processed in Headquarters to further distribute local taxes.

Further discussion of special sellers may be found in CPPM Section 265.000.

TEMPORARY SELLERS**240.050**

Temporary sellers typically operate a selling operation with duration of one month or less.

- Examples of selling operations qualifying as temporary are Christmas treelots, carnivals, rummage sales and fireworks stands.
- The Board may issue a temporary permit, however, for up to 90 days if necessary.

Further discussion of temporary sellers may be found in CPPM Section 250.000.

CONSOLIDATED ACCOUNTS — REGISTRATION**245.000****CONSOLIDATED ACCOUNTS DEFINED****245.005**

A consolidated account is a sales tax account with two or more selling locations for which a single tax return is filed. No seller should be required to hold a consolidated permit if he/she prefers to file a separate return for each selling location.

MASTER LOCATION DEFINED**245.010**

Consolidated sales and use tax accounts are issued to a “master location,” which generally is the location of books and records necessary for audit. A master location does not necessarily need to be a selling location, hence a master location may be in one district, with all selling sublocations located elsewhere.

A master permit is only an authorization to file consolidated returns, not to make sales of tangible personal property. As stated in the previous paragraph, the master location of a consolidated account is generally the address at which the books and records necessary for audit are maintained. The location of an out-of-state accountant or bookkeeper, as is common in franchise operations, is not a master location.

If a sales location is also the master location, a subpermit and a consolidated permit are required for that location. Because a master location may not have a permit as a place of business, enforcement or punitive measures regarding master locations may not be available to the Board.

SR X Consolidated Accounts

Taxable Activity Type SR X is a consolidated account with all sublocations located within the same taxing jurisdiction. The master location for an SR X account may be in another district or another county, yet the area code will be shown for where the sublocations are situated.

For example, a taxpayer operates two sublocations within the city of Ventura, with an area code of 56020-000-0000, but books and records for audit purposes (master location) are in North Hollywood. The permit will be issued as follows:

Taxable Activity Type:	SR X
Master location:	North Hollywood
Office of control:	AC — Van Nuys (which has administrative responsibility for accounts in North Hollywood)
Area code on master:	56020-000-0000

See also CPPM Subsection 230.030 for further discussion of area codes for SR X accounts.

SUBLOCATION DEFINED**245.015**

A sublocation is one of two or more business locations from which sales of tangible personal property are made, and for which sales are reported under a single sales and use tax account number.

Sublocations are usually found with sales Taxable Activity Types SR X, SR Y and SR Z, but occasionally are found with temporary accounts SR (ACCT CHAR 001). Sublocations for Taxable Activity Types SR Y, SR Z, and (generally) SR (ACCT CHAR 001) are not in the same taxing jurisdiction. Taxing jurisdiction includes a city, unincorporated county area, district, or redevelopment area, because each may receive a portion of taxes collected as a result of Bradley/Burns Local Tax or statute. See also CPPM Subsection 230.030 for additional information.

PERSONS TO WHOM ISSUED**245.020**

As a general rule, consolidated permits may be issued to sellers having two or more selling sublocations in one or more taxing jurisdictions, provided the district determines it is in the best interest of the taxpayer and the Board. Those sellers who do not maintain their records in a manner enabling them to report conveniently on a consolidated basis should be encouraged to file separate returns even though they meet the requirements for being issued a consolidated permit.

CONSOLIDATED ACCOUNTS IN A SINGLE TAXING JURISDICTION**245.025**

Consolidated accounts issued to persons having two or more locations within the identical taxing jurisdiction require no further allocation of local tax. (Accounts with the same 12-digit area code for all locations.) They are always assigned account numbers with the tax code SR X. Accounts coded SR X file a regular sales and use tax return with no special schedules. Once each year these accounts are sent a list of all locations of record and a letter requesting confirmation of existing locations. Also, taxpayers are requested to inform the Board of new or unlicensed outlets, or outlets which moved or closed out. (See CPPM Subsections 245.010 and 230.030.) For temporary accounts TAT SR (ACCT CHAR 001), please refer to CPPM 245.060.

**REGULAR CONSOLIDATED ACCOUNTS
REQUIRING LOCAL TAX ALLOCATION****245.030**

Consolidated accounts issued to persons having locations in more than one taxing jurisdiction require further allocation of local tax. They are assigned account numbers with tax code SR Y or, as explained in the following section, SR Z. In addition to the consolidated return, taxpayers receive Form BOE-530, Schedule C — Detailed Allocation by Suboutlet of Uniform Local Sales and Use Tax, to provide for allocation of tax by sublocation. (See CPPM 230.030.) For temporary accounts TAT SR (ACCT CHAR 001), please refer to CPPM 245.060.

CONSOLIDATED ACCOUNTS — SPECIAL SELLERS**245.035**

SR Z TAT is a consolidated Special Seller (SR S) account. These are consolidated accounts issued to persons who are special sellers, as described in CPPM 265.000 et seq., and have two or more locations. They are always assigned account numbers with the tax code SR Z. In addition to the consolidated return, these taxpayers receive Form BOE-530, Schedule C — Detailed Allocation by Suboutlet of Uniform Local Sales and Use Tax, to provide for allocation of tax by sublocation. A schedule on the reverse side of the consolidated return provides for allocation of tax by counties.

CONSOLIDATED ACCOUNTS — ITINERANT VENDORS**245.040**

Itinerant vendors in general are discussed in CPPM 260.010.

Generally, an itinerant vendor will indicate an address where the books and records of the business are located and a location where most of their sales will take place. The question arises: “What happens when the location of the books and records becomes a selling location?” Whenever a particular location becomes a selling location, that place must be added to the account as a sublocation. This will cause the account to be changed from an SR account to an SR Y or SR X account.

Following are four examples that should help in determining proper account coding:

1. When an itinerant vendor, whose residence is listed as the original business location and whose local tax allocation is under \$600 per year, decides to sell at a swap meet, the original business location will become Sub 0001 with an area code of XX999 and the swap meet location will become Sub 0002 using the specific area code for the swap meet.
2. When an itinerant vendor, whose residence is listed as the original business location and whose local tax allocation is under \$600 per year, decides to open up a permanent retail location, the original business location will become Sub 0001 with an area code of XX999 and the permanent retail location will become Sub 0002 using the specific area code for that retail location.
3. An itinerant vendor whose local tax allocation is over \$600 per year and all, or substantially all, sales are made in one county should be an SR account with an area code of XX999. If sales are made on a large scale in more than one county and the local tax is more than \$600 per year, the account should be coded SR S with the area code of the permanent business address.
4. How should an account be coded when an itinerant vendor whose residence is listed as the original business location and whose local tax allocation is over \$600 per year decides to open up a permanent retail location? If all, or substantially all, the vendor’s operations are made in one county, Sub 0001, the original business location, will be coded XX999 and Sub 0002, the retail selling location, will be coded to the appropriate local area code and the TAT will be SR Y. The account will become an SR Z only if the local tax on itinerant sales are over \$600 per year, and not generally confined to the county of residence.

APPLICATIONS — CONSOLIDATED ACCOUNTS**245.045**

Information recorded on Forms BOE-400-MIP and MCO, Application for Seller’s Permit, is used to establish new consolidated accounts.

CONSOLIDATED ACCOUNT**245.050** |**Exact Location Verification**

Many post office delivery areas overlap city and/or county boundaries. As a result, proper verification of the exact location of a sublocation in some areas is very difficult. For example, the city of Watsonville is an incorporated city within Santa Cruz County with area code 44052-041-0000. Sales within the city of Watsonville are subject to a 7.75% sales and use tax rate. Watsonville postal delivery also includes unincorporated portions of Santa Cruz County (44998-041-0000). Immediately across the Pajaro River to the south are unincorporated portions of Monterey County (27998-032-0000, 7.00% tax rate) and San Benito County (35998-015-0000, 7.00% tax rate) served by the same Watsonville post office. There are streets in all three counties that have same or similar names. A similar situation exists in Folsom (Sacramento, El Dorado, and Placer Counties); Thousand Oaks and Malibu (Ventura and Los Angeles Counties); and Los Gatos (Santa Clara and Santa Cruz Counties). The importance of accurate coding for sublocations has become even more important and cannot be overemphasized, and for this reason the "County" for each sublocation must be entered.

Not All Selling Locations in California

Sublocations must be located within California. Many consolidated accounts have sublocations in California, and also fill orders to California consumers from out-of-state locations. When this situation is encountered, the taxpayer becomes a "special seller" (See CPPM 240.040 for the definition of "special seller"). No separate sublocation is established at the out-of-state location, but sales to instate consumers made from the out-of-state location must be reported, and local taxes plus any applicable district taxes allocated to the purchaser's county on Form BOE-531, Allocation by County of Local Tax, of the sales and use tax return. Use the tax code SR Z for this type of account (SR Z TAT is a consolidated Special Seller (SR S) account). Special returns containing Form BOE-531, Allocation by County of Local Tax will be sent.

Fiscal Impact of Errors

Errors in assigning tax area codes will result in the improper distribution of local tax revenues unless Board records are timely corrected prior to distribution of the tax. Such misallocations directly impact local government finances because the correct recipient is denied expected funds and the jurisdiction receiving the local tax in error may make important fiscal decisions based on overstated amounts. An improper distribution followed by a subsequent correction can have a material effect on the jurisdictions involved. For this reason, the importance of accurate coding cannot be overemphasized.

APPLICATION FOR TEMPORARY CONSOLIDATED ACCOUNT**245.060**

Form BOE-400-MT is prepared in conjunction with Form BOE-400-CS; Schedule of Branches for Consolidated Accounts, in order to establish a temporary consolidated account.

- Use tax code SR (ACCT CHAR 001) for all temporary accounts (whether consolidated or not). Unlike consolidated Taxable Activity Types SR X, SR Y, and SR Z), temporary consolidated accounts are treated like a single outlet temporary account.
- The instructions for preparation of Form BOE-400-T, as provided in Section 250.000 et seq., will apply.
- The decision tables in CPPM Subsection 245.075 and Section 110.035 of the Business Taxes CodeBook do not apply to consolidated temporary accounts.
- For consolidated temporary accounts with books and records located in a fringe area or out-of-state, assign an area code for the master location as though the account was a single outlet account. Use the decision table in Section 110.035 of the Business Taxes CodeBook to assist you in determining the proper area code.
- **IMPORTANT!** You must furnish the taxpayer with Form BOE-530-A, Schedule C — Detailed Allocation by Suboutlet of Uniform Local Sales and Use Tax. See CPPM Subsection 510.070.

PERMITS FOR GASOLINE STATIONS**OPERATED TEMPORARILY BY OIL COMPANIES****245.065**

- Oil companies holding subpermits for their service station locations will not be required to close out the subpermit when a lessee takes over the operation of the location and obtains a permit.
- The oil companies may keep the subpermit active to allow for their operation of the location in the event that the lease is terminated.
- The companies will include in their sales and use tax returns transactions for the stations they operate temporarily.

**RETAILERS OF GASOLINE QUALIFYING
AS RETAILERS UNDER SECTION 6015****245.070**

A retailer of gasoline sold at markets and similar businesses may be approved to operate under Revenue and Taxation Code section 6015.

- In such cases, the retailer is issued a consolidated permit with a subpermit issued for each fixed location.
- The account is assigned the tax code SR Y as part of the account number to provide for mailing of Schedule C for proper allocation of local tax.
- The operators at locations where the companies approved under section 6015 furnish gasoline will not be liable for, or required to include gasoline sales in their returns.

CONSOLIDATED ACCOUNTS — DECISION TABLE**245.075****CONSOLIDATED ACCOUNTS
(2 OR MORE BUSINESS LOCATIONS)**

CONDITION	A	B	C
All business locations in a single taxing jurisdiction	Y		
Businesses located in 2 or more taxing jurisdictions		Y	
* Special Sellers reporting MORE than \$600 in Local Tax per Year			Y

ACTION	A	B	C
Enter Taxable Activity Type SR X	X ¹		
Enter Taxable Activity Type SR Y		X ¹	
Enter Taxable Activity Type SR Z			X ¹
Area code to business locations	X ²		
Third through fifth digits of Master area code are 000		X ²	X ²

- Auctioneer, Construction Contractor or Vending Machine Operator

For accounts where the master location is situated outside California see decision table at Section 110.035 of the Business Taxes CodeBook.

TEMPORARY SELLERS**250.000****OVERVIEW****250.005**

Temporary permits are issued to cover a selling operation of a temporary nature normally lasting no longer than 90 days at one location.

- These permits are usually issued for rummage sales, Christmas tree sales, fireworks stands, carnivals, and similarly limited operations.
- Taxpayers, who hold seller's permits for permanent places of business, and also conduct operations of a temporary nature at places such as fairs or carnivals, are not required to hold separate permits for temporary operations.
- Holders of regular seller's permits should be instructed to report their sales on the return filed under their regular permit numbers and to attach Form BOE-530-A, Schedule C, to the return to provide a breakdown of the tax.

TEMPORARY SELLERS: BOOKS AND RECORDS OUT-OF-STATE**250.006**

Temporary sellers whose books and records are located out-of-state will be issued accounts with the office of control determined in the same manner as a single location regular sales and use tax account.

The decision table in Section 110.035 of the Business Taxes CodeBook will assist you in determining the correct office of control.

TEMPORARY SELLERS — ONLINE REGISTRATION**250.010**

Temporary sellers are registered in the same manner as "regular" sellers. The only difference is that the dates of operation will be entered into the system the step before account confirmation. This information will be used by the online system to generate a sales and use tax return for the proper monthly period. The return will act as the seller's permit card. Form BOE-442-ST will print for a temporary account and will have the valid start and ending dates entered. In addition, a BOE-401-EZ is provided. If the account is consolidated, a BOE-401-A with BOE-530 schedule C is provided.

REGULAR SELLERS**255.000****OVERVIEW****255.005**

Regular sellers are single outlet sales tax accounts requiring no further special allocation of local taxes by the Board. Regular sellers receive sales tax returns with no extra schedules for allocating local tax by county (Schedule B). Examples of “regular sellers” might include parttime sellers, service industries, singleoutlet retailers, and home businesses.

Regular seller’s permits are coded SR, with the third through fifth digits of the area code ending in numbers from “001” through “998”.

CONCESSIONAIRES**255.010**

For sales and use tax purposes, concessionaires, are retailers who operate on another person’s business premises. A concessionaire may or may not hold a seller’s permit depending on the arrangements the concessionaire makes with the owner of the premises. Concessionaires who hold sellers’ permits are liable for remitting tax along with filing a tax return.

If a concessionaire does not hold a permit, the permit holder for the premises upon which the concessionaire is allowed to operate becomes liable for all of the concessionaire’s tax. Taxes generated by concessionaire sales should be reported and paid on the permit holder’s regular sales and use tax return.

The permit holder (prime retailer) may be held jointly and severally liable for any sales and use taxes imposed on unreported retail sales made by the concessionaires if the concessionaire does not have a seller’s permit for that location. Such a prime retailer will be relieved of his or her obligation for sales and use tax liabilities incurred by such a concessionaire for the period in which the concessionaire holds a permit for the location of the prime retailer or in cases where the where the prime retailer obtains and retains a written statement that is taken in good faith in which the concessionaire affirms that he or she holds a seller’s permit with the Board.

When concessionaires are found operating without a permit, the permit holder for the premises upon which concessionaire activities are occurring needs to be contacted and informed of potential or actual liability.

Reference: Sales and Use Tax Regulation 1699

SALESPERSONS, ORDER TAKERS**255.020**

Salespersons and solicitors who merely take merchandise orders, then turn the order over to their employer for filling and passage of title and possession to the buyer, are not considered retailers and do not require a seller's permit.

Order takers may accept down payments or collect on delivery, but if they do not acquire title to merchandise being sold or possession of property with authority to pass title, they are not required to hold a seller's permit.

Orders solicited in California for an out-of-state retailer who does not hold a Certificate of Registration — Use Tax, and who maintains no California place of business, must be reported by the solicitor or order taker on an information use tax return each quarter. Refer these cases, when discovered, to the Out-of-State District (District OH) for further investigation. Cases of this sort are rare because an out-of-state seller who has solicitors, salespersons or order takers in California is required to hold a Certificate of Registration — Use Tax.

Section 6203 of the Revenue and Taxation Code defines “retailers engaged in business in this state”; therefore, Board personnel should be alert to recognize and report sales activities of representatives and solicitors of out-of-state retailers operating within their districts (retail sales only, as Section 6203 does not apply to sellers whose sales are all for resale). Such sales might be called to the field's attention through complaints of local retailers, by observation of the activities of sales representatives, examination of record of purchasers, and advertising placed in local newspapers. The most efficient enforcement program will be accomplished by individual initiative to follow through on promising leads to register the out-of-state seller.

The following sources of information, though not inclusive, should prove helpful in locating outof state retailers who may be engaged in business in California:

- Truck, railroad, and airplane terminals
- Public warehouses
- State agencies, such as Division of Corporations, Franchise Tax Board, Consumer Affairs — Contractor's State License Board, Department of General Services — Office of Procurement, and Department of Food and Agriculture
- City Clerk's Office (Business Licenses)

HOBBYISTS AND PARTTIME SELLERS**255.030**

Hobbyists, parttime sellers, or other persons who make sales or exchanges of property as a sideline activity are required to hold seller's permits if their sales are sufficient in number, scope and character to constitute an activity requiring a permit.

BARBER, BEAUTY SHOPS AND SERVICE BUSINESSES**255.035**

Barbershops, beauty salons and other “service businesses” are consumers of tangible personal property, usually incidental to their professional services. No seller's permit is required unless sales of cosmetics, wigs, or other retail items occur more than occasionally.

SWAP MEETS, FLEA MARKETS AND SPECIAL EVENTS**255.045**

RTC section 6073 defines “swap meet, flea market, or special event” as:

1. An activity involving a series of sales sufficient in number, scope and character to constitute a regular course of business, or
2. Any event at which two or more persons offer tangible personal property for sale or exchange and at which a fee is charged for the privilege of displaying such property for sale or exchange or at which a fee is charged to prospective buyers for admission to the area where such property is offered or displayed for sale or exchange.

Special events include trade or specialty shows, fairs, festivals and similar limited term promotional events.

RTC section 6073 also requires event operators to obtain, before renting or leasing space to a person desiring to engage in or conduct business as a seller on premises owned or controlled by such operator either of the following:

1. Evidence that the seller holds a valid seller’s permit.
2. A written statement from the seller that he or she is not selling any tangible personal property that is subject to sales tax.

Form BCIA 56, Swap Meet Vendor Information Report, or the BOE’s Form BOE 410-D, Swap Meets, Flea Markets, Or Special Events Certification, are used to collect information from sellers at these events. The Form BCIA 56 is a Department of Justice form created under Business and Professions Code section 21663. Completion of this form by an event operator constitutes compliance with the seller verification provisions of RTC section 6073. If Form BCIA 56 is not used, then the equivalent information may be obtained using the BOE’s Form BOE-410-D.

In general, sellers at swap meets, flea markets and special events who sell tangible personal property at retail are required to obtain seller’s permits and pay the sales tax on their gross receipts from these sales. The only exceptions are:

1. Persons selling exempt food products not for consumption on the premises, such as fruits or vegetables.
2. Persons selling items that were purchased tax-paid from approved RTC section 6015 retailers, such as Avon, Tupperware, etc.
3. Persons who are “occasional sellers.” Occasional sellers only include those persons whose sales are of such limited number, scope, and character that their activity does not require the holding of a seller’s permit. A person who is disposing of unwanted household items normally accumulated in day-to-day living, such as when cleaning out his/her attic or garage, and does this no more than twice in any twelve month period, is considered to be an occasional seller. See Sales and Use Tax Regulation 1595 for further information regarding occasional sales.

The requirements of RTC section 6073 must be uniformly enforced; and the selling activities of itinerant sellers cannot be ignored. Conducting periodic investigations of these events on a regular basis encourages event operators to comply with the law and helps create uniformity in the BOE’s dealings with them.

SWAP MEETS, FLEA MARKETS AND SPECIAL EVENTS**(CONT. 1) 255.045**

Field offices will identify swap meets and other special events operating within their geographic area of responsibility. Staff will take proper action to educate operators and sellers to assure compliance with the law, and will verify that sellers attending these events are properly registered. Cooperation with the operator is the most desirable method to reach individual sellers. Advance schedules of events should be obtained on a regular basis, and operators contacted to allow individual sellers sufficient lead-time to comply with BOE requirements.

Operators will be notified of the provisions of RTC section 6073 (Form BOE-410-A, Notice to Swap Meet Operators, is recommended) and informed that permission to sell at the function should be refused to any prospective seller unless written verification of a valid seller's permit (or other appropriate certification) is obtained. Form BOE 410-B, Notice to All Sellers (Permit Requirements), should be supplied for display on the premises during the event.

RTC section 6073 places additional record-keeping obligations on operators. Under this section, upon written notification to the event operator the BOE can require an operator to submit a list of vendors conducting business on the operator's premises as a seller. The BOE can impose this requirement up to three times each calendar year for each operator. (Refer to RTC section 6073 for the specific information authorized to be collected.) Records must be retained to the same extent as provided in RTC section 7053. Sales and Use Tax Regulation 1698, Records, sets forth the specific time-period to retain the records.

Failure by an operator to comply with either the seller verification provisions of RTC section 6073 or the list submission requirements will subject that operator to a one thousand dollar (\$1,000) penalty for each offense, which is assessable by the BOE.

Local Tax

When the operator of an event is an itinerant seller, the operator's account should be converted to consolidated, tax code SR Y or SR Z, and a subpermit should be added for each location. The operator will then receive Form BOE-530, Schedule C - Allocation of Local Tax by Sublocation.

Taxpayers who hold a seller's permit for permanent places of business and also make sales at temporary locations, such as swap meets, flea markets, fairs, and other special events, are not required to hold separate or subpermits for those temporary sales locations. Taxpayers should complete Form BOE-530-B, Local Tax Allocation for Temporary Sales Locations (Schedule C), and file it with their sales tax return.

Proper allocation of local tax on the returns of swap meet sellers is an important concern. To provide a system for proper allocation of the local tax, a special account identification has been created. All sales tax accounts where sales at swap meets, flea markets, auctioneers and special events are planned should have the Acct Char Code 006. Accounts bearing the Acct Char Code 006 with the exception of SR Y and SR Z accounts, will receive Form BOE-530-B, Local Tax Allocation for Temporary Sales Locations. SR Y and SR Z accounts, which automatically receive Form BOE-530-B, should enter the local tax allocation on that form. Form BOE-530-B may be distributed directly to operators and cities to assure that all taxpayers required to file this form receive it.

SWAP MEETS, FLEA MARKETS AND SPECIAL EVENTS**(CONT. 2) 255.045**

“Recurring locations”, those where sales are made at least once a year, will be added as consolidated sublocations to the affected permit. Form BOE–530–B provides check boxes to identify recurring locations. Accounts that indicate a recurring location on Form BOE 530 B will automatically be converted to consolidated accounts and have subpermits added in Headquarters. Close out of sublocations and conversion of affected accounts from consolidated to single location will be performed in the field offices. Any questions that cannot be answered by field staff should be directed to the Local Revenue Allocation Section.

Follow-Up

“Pre-working” of the event is effective only when adequate follow-up is maintained. Sellers’ names and permit numbers should be obtained from the operator and verified against the registration file. If permits are found to be invalid, appropriate action will be initiated to secure compliance. The event should be spot checked to assure compliance of the operator and the attending sellers. Staff should be vigilant for revoked accounts (close out code “8”). When encountered, the district of control must be contacted to provide background and assistance. Under no circumstances should revoked sellers be ignored.

Determinations To Clear Delinquent Periods

Each district should establish a procedure to detect sellers that frequently obtain a temporary seller’s permit, but fail to file returns. A check of the IRIS Registration database will indicate multiple Temporary Registrations with waived delinquencies (BOE 657’s). Such situations will be remedied by issuing determinations and withholding or refusing to issue a permit until the liability has been satisfied. Persons who excessively certify that they are occasional sellers should be similarly treated.

CHARITABLE ORGANIZATIONS 255.050

Sales by charitable organizations are exempt from the sales tax if certain conditions are fulfilled. However, if the retail sales are made by an auxiliary entity, not a part of the qualified parent organization, and not in itself qualifying for exemption, the sales are subject to sales tax. Although a charitable organization’s sales may be exempt from sales tax and property tax, they may still be subject to tax and fees under one or more Special Tax programs. Taxpayers should be referred to the Special Taxes Department for more information.

Charitable organizations whose sales are exempt from sales tax are still required to hold a seller’s permit.

The conditions that must be fulfilled for exemption are:

- a. The organization must be formed and operated for charitable purposes, and must qualify for the “welfare exemption” from property taxation provided by Section 214 of the Revenue and Taxation Code.
- b. The organization must be engaged in relief of poverty and distress.
- c. The organization’s sales or donations must be made principally as a matter of assistance to purchasers or donees in distressed financial condition.
- d. The property sold or donated must have been made, prepared, assembled or manufactured by the organization.

CHARITABLE ORGANIZATIONS

(CONT.) 255.050

Condition (a) is fulfilled if the organization qualifies for the exemption provided in Section 214 of the Revenue and Taxation Code. This exemption must cover the real and/or personal property owned by the organization, and situated at the location from which sales are made. If the organization does not own the real property, it must qualify for exemption of the personal property at that location, i.e., inventory, furniture and fixtures, etc.

Organizations wishing to obtain the property tax exemption must first establish themselves as a “nonprofit organization” with the Secretary of State, and either the Franchise Tax Board or the Internal Revenue Service. Forms to apply for recognition as a nonprofit organization are available from the respective offices of these agencies. Next, they must apply for the “welfare exemption” through the County Assessor of the county in which the property is located by March 15 of each year. The County Assessor forwards the exemption claim to the Board’s Assessment Standards Division where the claimant’s organizational document, activities, and use of properties are reviewed. It is possible that a claimant’s articles of incorporation, etc., would satisfy the statutory requirements but that the use of certain of its property would be such that the property could not be exempted. If the property used at the location from which retail sales are made is not exempt, the organization cannot be granted the welfare exemption or the sales tax exemption on that property.

The Assessment Standards Division makes a decision and advises the applicant of status either on all or, if there is a difference in use, on individual properties.

Organizations must qualify for property tax exemption every year. If a change in the articles of the organization or method of operation causes failure to qualify for the exemption in any year, sales will be subject to sales tax for that property tax year.

Charitable organizations applying for a sales tax permit should be advised of the exemption requirements. If the date is after the March 15 filing date for the year, they should be advised to make application to the County Assessor to determine whether they would be considered as qualifying. If they obtain a letter from the County Assessor or from the Assessment Standards Division stating that they would be qualified for the exemption, the Board can exempt them from payment of sales tax pending their qualifying at the normal filing time. (A similar letter should be obtained if an organization fails to make timely application in a succeeding year.)

If the organization is unable to obtain a letter from the Assessment Standards Division, advise the organization their sales will be subject to sales tax until the date they actually qualify for exemption. In the absence of proof of qualification for property tax exemption under Section 214, the organization must understand that if the property tax exemption is denied at the regular filing time, they will be required to pay the tax and interest on sales retroactive to their starting date.

Conditions (b) and (c) are fulfilled if the primary purpose of the organization is to relieve poverty and distress and to aid purchasers by selling its property at reduced prices so as to be of real assistance to the purchasers. Incidental sales to persons other than indigents will not preclude the organization from receiving the benefits of an exempt organization.

Condition (d) is fulfilled when the property is picked up at various locations and brought together (assembled) at one or more locations for purposes of sale, even though nothing further remains to be done to the property to place it in salable condition. Property is deemed “prepared” when it is made ready for sale by such processes as cleaning, repairing, or reconditioning. The fact that an organization otherwise fulfilling condition (d) occasionally makes sales of new merchandise incidental to its principal activities will not result in tax liability on account of such incidental sales.

Any organization requesting an exemption should do so by letter as outlined in Publication 18. Exemption requests should be sent to the Public Information and Administration Section.

**TAX EXEMPTION FOR NONPROFIT ORGANIZATIONS DISTRIBUTING
NEW CHILDREN'S CLOTHING WITHOUT CHARGE****255.051**

Nonprofit organizations meeting certain criteria are exempt from payment of state, local, and district sales and use taxes imposed on the sale, use, or other consumption of new children's clothing which is distributed without charge to elementary school children. For purpose of this exemption, nonprofit organization means an organization that meets the following criteria:

1. Is organized and operated for charitable purposes
2. Has exemption status under Section 23701(d) of the Revenue and Taxation Code
3. Is engaged in the relief of poverty and distress
4. Distributes new children's clothing principally as a matter of assistance to recipients in distressed financial conditions

This Board has the responsibility to provide a means of identification of exempt nonprofit organizations. For this purpose, a tax exemption letter signed by the Deputy Director, Sales and Use Tax Department, will be sent to qualifying organizations. This tax exemption letter, when presented at the time of purchase, will permit purchases to be made without payment of sales or use tax.

Procedure for Obtaining a Tax Exemption Letter

Any nonprofit organization requesting an exemption should do so in letterform. District offices receiving exemption requests should forward them to the Public Information & Administration Section.

The Public Information & Administration Section will determine the eligibility of each applicant, and an exemption letter will be sent to those who qualify. The exemption letter is valid until revoked.

The Public Information & Administration Section is responsible for ensuring that each exempt nonprofit organization continues to meet the exemption criteria. Board records of organizations issued tax exemption letters will be reviewed each year to determine if the exemption should be revoked.

Information regarding any tax exemption issued may be obtained by telephone call or letter to the Public Information & Administration Section.

Refunds

Refunds of tax paid prior to receipt of the tax exemption letter should be obtained from the vendor. Vendors should be advised to file claims for such refunds with the Headquarters Refund Section.

EXEMPT YOUTH ORGANIZATIONS**255.052**

Section 6361 of the Revenue and Taxation Code provides consumer status to any youth group sponsored by or affiliated with a qualified educational institution including, but not limited to, any student activity club, athletic group, or musical group provided the sales of food products, nonalcoholic beverages, and tangible personal property made or produced by their members are made on an irregular or intermittent basis and the profits are used exclusively in the furtherance of the purpose of the organization.

Section 6361.1 grants consumer status to organizations not specifically named in section 6361 or sponsored by or affiliated with a qualified education institution which (1) qualify for taxexempt status under Section 501(c) of the Internal Revenue Code, (2) provide a supervised program of competitive sports or good citizenship for youth, and (3) do not discriminate on the basis of race, sex, nationality, or religion.

A qualified education institution is defined as:

1. Any public elementary, secondary, or vocationaltechnical school providing education for kindergarten, grades 1 to 12, inclusive, and college or university undergraduate programs, or any part thereof, operated by any state or local government.
2. Any nonprofit private educational institution providing education for kindergarten, grades 1 to 12, inclusive, and college undergraduate programs, or any part thereof, that meets the requirements of the State Department of Education for a school. "Private educational institution" means any entity providing education which satisfies the requirements of state and local laws pertaining to private educational institutions in effect on January 1, 1990, and which does not discriminate on the basis of race, sex, nationality, or religion.

Irregular or intermittent is defined as associated directly with a particular event, such as fairs, galas, parades, scout-a-ramas, games and similar activities that are not conducted on a regularly scheduled basis. That term includes refreshment stands or booths that are utilized at scheduled events of organized sports leagues, but does not include storefront or mobile retail outlets that ordinarily require local business licenses.

Presently, Little League, Bobby Sox, Boy Scouts, Cub Scouts, Girl Scouts, Campfire Inc., Young Men's Christian Association, Young Women's Christian Association, Future Farmers of America, Future Homemakers of America, 4-H Clubs, Distributive Education Clubs of America, Future Business Leaders of America, Vocational Industrial Clubs of America, Collegiate Young Farmers, Boy's Clubs, Girl's Clubs, American Youth Soccer Organization, the California Youth Soccer Association North, the California Youth Soccer Association South, Pop Warner Football, and the Special Olympics, Inc., are youth organizations considered consumers under Section 6361. Other youth organizations which qualify for tax-exempt status under section 501(c) of the Internal Revenue Code, provide a supervised program of competitive sports or good citizenship for youth, and do not discriminate on the basis of race, sex, nationality, or religion may request consumer status. All questions regarding consumer status for youth groups should be directed to the Public Information and Administration Section.

Inquiries about consumer status from youth groups should be answered with an explanation of the provisions of section 6361. Organizations continuing to make sales of non-consumer status items in sufficient size and scope may still need a seller's permit for those items.

School sponsored or affiliated organizations holding a seller's permit and selling only food products, nonalcoholic beverages, and tangible personal property made or produced by their members should be directed to call their local Board of Equalization office to close out their permits. A close out audit should not be recommended.

**SALES OF FOOD PRODUCTS BY BLIND OPERATORS LICENSED
BY THE DEPARTMENT OF REHABILITATION**

255.055

Blind operators of cafeterias where the food is “furnished, prepared or served for consumption at tables, chairs, or counters, or from trays, glasses, dishes, or other tableware whether provided by the state agency or by the Department of Rehabilitation” will be required to have a seller’s permit and the blind operator will report and pay the tax.

TEMPORARY RETAIL LIQUOR LICENSE

255.060

The Department of Alcoholic Beverage Control (ABC) issues a temporary retail liquor license for a \$50 fee when definite conditions are met. The temporary liquor license shall be issued for a period not to exceed 60 days; however, the license may be renewed for an additional 60 day period upon payment of an additional fee.

The fee is exempt from application to any sales or use tax liability owed by the person who paid the fee.

Applicants for a temporary retail liquor license must obtain a seller’s permit. Consideration should be given to security requirements, as the temporary retail liquor license does not have any security value.

Should the owner of a permanent liquor license begin the transfer process to a potential buyer and for some reason the transfer does not occur, the owner can be held liable if the potential buyer operated the business under a “management agreement”. Under a “management agreement”, the ownership does not actually transfer. The liquor license of the business stays in the transferor’s name and ABC qualifies the manager since that person is responsible for day-to-day operations. ABC holds the owner responsible for the actions of its manager.

CLASSIFIED SELLERS**260.000****OVERVIEW****260.005**

Classified sellers are single outlet sales tax accounts, but due to the nature of business, require special allocation of local taxes by the Board. The Board has determined that classified sellers with local tax amounts less than \$600 per year do not require special schedules or tax returns to be prepared by the taxpayer. (Local tax is 1% of taxable sales, therefore 1% of \$60,000 in taxable sales is \$600.) Local taxes are distributed using a mathematical formula. Examples of classified sellers might include construction contractors, mobile auto repair facilities, vending machine owners, doortodoor sales, and persons who regularly conduct business in various temporary locations.

Classified seller's permits are coded SR, with the third through fifth digits of the area code ending in "999". "999" codes flag the account for further distribution of local taxes. For example, a classified seller in Ventura County would have an area code of 56-999-000-0000.

ITINERANT VENDORS (TRAVELING PERMITS)**260.010**

Persons who maintain no permanent place of business but carry their merchandise with them or solicit orders door to door are considered "itinerant." Itinerant vendor permits are assigned business code 28. Examples of itinerant vendors (sellers) might include lunch truck operators, retailers of service station supplies, or persons who travel from town to town selling where they can. Sellers should have the permit in their possession whenever making sales. (For temporary operations, see CPPM Section 250.000.)

Coding Itinerant Vendors

Itinerant vendors are treated much like vending machine operators. (See CPPM Subsection 265.040.)

- If all, or substantially all, sales are made in one county, regardless of local tax revenue involved, code the account SR and assign a countywide area code (XX-999).
- If the local tax is more than \$600, and significant amounts of tax are generated in more than one county, code the account SR S and assign the countywide area code (XX-999 XXX XXXX) for the location of books and records.
- Accounts located in fringe areas and out-of-state, regardless of volume, will have Taxable Activity Type SR S assigned, and will use an area code of 59-999 000 0000. This procedure applies only to these specific conditions.

The above criteria for determining Taxable Activity Type and area code will be applied to new accounts at the time of registration and to existing accounts as they are encountered during routine audit or compliance activities.

Mailing and Business Address

- The mailing address for a traveling permit holder should be one through which mail will always reach the taxpayer. This address should also be one at which the person may be contacted or at which someone will accept messages or know the person's itinerary.
- A post office box or mail drop location is not acceptable as a business address for instate accounts, but may be used for out-of-state accounts.
- The district in whose administrative area the permanent mailing address of the seller is located is responsible for all audit and compliance functions of this type of account.

ITINERANT VENDORS (TRAVELING PERMITS)**(CONT.) 260.010****Form BOE-291, Information on Sales Made from Temporary or Traveling Location**

To assist in controlling itinerant accounts, Board personnel will prepare Form BOE-291, Information on Sales Made From Temporary or Traveling Location, for each traveling permit examined when checking fairs, carnivals, or other places where traveling sellers usually operate. After preparation and verification, Form BOE-291 is forwarded to the district office responsible for the account.

Form BOE-291 is an excellent and effective tool for maintaining a high profile compliance image. Legitimate sellers almost always welcome permit checks that reassure them the Board wants all sellers treated equally. When preparing Form BOE-291, the following steps are recommended:

- a. Check the taxpayer's account on video as soon as possible.
- b. Contact the district of control immediately if a problem is detected with the account.
- c. With permission from the district of control, attempt to clear any problems and bring the account into compliance with the law.

These steps are necessary because many taxpayers have moved on by the time Form BOE-291 is received by the district of control.

The district, upon receipt of Form BOE-291, verifies that the permit is valid, and if a file exists, files the form for future reference in the account folder. When no file exists, the form should be sent to Taxpayer Records for filing. You may use the online registration system to make a comment concerning the contents of the Form BOE-291. If the permit is not valid, immediate action is taken to properly register the seller. All districts are to cooperate fully when requested by another district to aid in bringing an account into compliance with the law.

CONTRACTORS**260.020**

General contractors or subcontractors who make improvements to real property and make sales of fixtures are required to hold a seller's permit.

Only those accounts reporting more than \$600 in local tax a year are required to allocate the tax to counties. These accounts are assigned the Taxable Activity Type SR S as part of their account number to provide for mailing of the special schedule to assure that proper allocation of local tax is made.

Those accounts reporting \$600 local tax a year or less are assigned the Taxable Activity Type SR as part of their account number and a countywide area code (XX-999 XXX XXXX).

Local Tax Allocation by Construction Contractors

Regulation 1806 provides that the jobsite is regarded as a place of business of a construction contractor or subcontractor and is the place of sale of "fixtures" furnished and installed by contractors or subcontractors. The place of use for the consumption of "materials" is the jobsite.

Since its inception, local tax generated by the sale or use of tangible personal property at construction sites has been added to the countywide unallocated pool as the most practical method for allocating tax to each jurisdiction.

CONTRACTORS**(CONT.) 260.020**

The Board passed a resolution, effective January 1, 1995, which allows local tax from construction contractors to be allocated to the local jurisdiction of the specific construction jobsite. This is accomplished by a contractor or sub-contractor, electing to obtain a sub-permit for the jobsite. The contracts or sub-contracts that are for \$5,000,000 (5 million dollars) or more are eligible for this election. This qualifying contract price applies to each contract or sub-contract for work performed at the jobsite, and not to the total value of the prime contract.

The object of the resolution is to allocate local tax to the local jurisdiction where the jobsite is located. Registration area coding must be for the jobsite even if the project address is in another jurisdiction. Likewise, coding for a sub-jobsite of the prime project, even if the prime project location is in another jurisdiction, must be for the sub-jobsite location.

Conditions of the sub permit

- If the contractor elects to obtain a sub-permit for a jobsite, the sub-permit account indicator BC-IND should be marked with a Y.
- The estimated completion date of the contract is to be obtained at the time of registration. The sub-permit shall be closed-out by the district office immediately after the sub-permit is registered using a future close-out date of the estimated completion date of the contract, plus six months.
- The contractor's election to obtain a sub-permit for a jobsite is irrevocable and the sub-permit may not be cancelled or closed-out for the life of the construction contract.
- The sub-permit is subject to revocation action as provided by the Sales and Use Tax Law.
- Permits should not to be issued to contractors who only install materials purchased in-state and are not normally retailers of materials. The resolution does not allow contractors to purchase tangible personal property for resale, including materials, which they will consume at the jobsite.
- Contractors may not purchase machinery and equipment to be used on the construction job without payment of sales tax in order to allocate the use tax to the specific jobsite.
- Regarding machinery and equipment sold by the contractor as part of the contract, local tax should continue to be allocated to the contractor's permanent place of business where the principal negotiations take place in accordance with Regulation 1802.
- Per Regulation 1806, local tax must still be allocated countywide for jobsites which have contracts of \$5,000,000 or more where the contractor has elected not to obtain a sub-permit. However, if the election is made, no local tax will be reallocated for periods prior to the reporting period for the start date of the sub-permit.
- No documentation of the \$5,000,000 contract price or value of work remaining is required to issue a sub-permit for a jobsite unless the value of the work appears to be substantially less than \$5,000,000.

Explanation of Allocation Elections

Construction contractors may elect to allocate local tax to a specific jurisdiction on Schedule C by obtaining a sub-permit for a specific jobsite. If this election is not made local tax will be allocated in the usual manner by using Schedule B. A copy of the attached notice should be discussed with the contractor, if possible, and handed out for all construction contractor sub-permits. Board staff should not stress one election over the other.

SPECIAL SELLERS**265.000****OVERVIEW****265.005**

Special Sellers are accounts with tax volumes sufficiently large or operations geographically diverse to require additional steps during return processing. Local tax must be allocated to cities and counties first through determining where sales actually occurred, then for sales made from traveling or itinerant locations or where point of sale cannot efficiently be pinpointed, allocation is performed on a statistical basis.

PERSONS QUALIFYING AS RETAILERS UNDER SECTION 6015**265.010**

For efficient administration of the law, the Board may declare certain sellers, wholesalers or distributors as retailers of their products even though they sell to salespersons, representatives or canvassers for resale to consumers. This is done so each of the salesmen, representatives or canvassers is not individually required to hold a seller's permit. Even though the wholesaler or distributor may or may not desire to be considered a retailer under Section 6015, the final decision in these matters rests with the Board.

In order to assist the Board, whenever a person indicates a desire or need to operate under Section 6015, he/she should be instructed to submit a request in writing to the district or branch of control for the account.

Districts should submit a complete report with a recommendation to approve or deny placement of the account on Section 6015 status. The report will be addressed to the Planning, Evaluation & Technology Section. When the request originates with the taxpayer, the letter of request should be attached to the district's report, and should contain the following information:

- Name of taxpayer.
- Principal place of business.
- Place of sale (see CPPM Subsection 265.025).
- Account number.
- Products sold and manner of operation.
- Territory covered.
- Number of outlets or salespersons.
- Financial stability and security status (profit and loss statement).
- Estimated annual sales volume.
- Adequacy of records and their location.
- Name, address, and account numbers of all representatives. (If 6015 requester is a large, established distributor/wholesaler, a random sample will be adequate.)
- copy of the agreement/contract with distributors.

PERSONS QUALIFYING AS RETAILERS UNDER SECTION 6015**(CONT.) 265.010**

Two additional factors to be taken into account when the reports and recommendations are being completed and reviewed are:

1. To what extent does the wholesaler maintain control over the representatives?
Is the representative handling only the product line of the 6015 requester?
Is there a working contract?
Product flow?
Will all the representatives' sales be at retail?
2. If approved, could there be an excess tax reimbursement situation?

Review product sold ultimate retailer/consumer, and taxable/nontaxable sales.

The district's report and taxpayer's request are reviewed by the Planning, Evaluation & Technology Section and directed to the Program Planning Manager for approval. After approval by the Program Planning Manager, the Planning, Evaluation & Technology Section will send letters to the retailers notifying them of the disposition of their request. A copy of the taxpayer's notification will be sent to the district to make corrections to the account record, if applicable.

The Planning, Evaluation & Technology Section (PETS) will maintain a file on all approved Section 6015 Retailers. PETS also inputs the 6015 information in the TAR on-line account record.

RESCISSION OF BOARD'S APPROVAL TO OPERATE UNDER SECTION 6015 265.020

If a request is made by the taxpayer to be removed from the status of a retailer under Section 6015, or the district determines that the taxpayer's operations have materially changed and are no longer compatible with Section 6015, the procedure is as follows:

1. The district of control will submit a complete report with a recommendation to terminate authorization of the seller to operate under Section 6015. The report will include:
 - a. The name, address and account number of the seller.
 - b. A list showing the name and address of former agents and representatives.
 - c. The reason(s) for the recommendation.
2. When the request has originated with the taxpayer, a copy of the taxpayer's letter of request together with the list of agents should be attached to the district's report. The report will be sent to the Planning, Evaluation & Technology Section.

The district's report and taxpayer's request will be reviewed by the Planning, Evaluation & Technology Section and directed to the Program Planning Manager for approval. After approval by the Program Planning Manager, the Planning, Evaluation & Technology Section will send letters to the retailers notifying them of the disposition of their request. A copy of the taxpayer's notification will be sent to the district to make corrections to the account record, if applicable.

CODING FOR RETAILERS UNDER SECTION 6015**265.025**

Changes to the section 6015 program became effective July 1, 1990, and special coding to reflect itinerant status of retail salespersons, canvassers and agents was rescinded. Regulation 1802 was amended at the same time.

- Section 6015 sellers with a single instate location will be assigned Taxable Activity Type “SR,” and the area code will be that of the business location of the retailer, regardless of where doortodoor solicitations of orders occur.
- The regulation provides that the “place of sale” shall be the business location, other than doortodoor solicitations of orders, where principal negotiations are conducted if more than one place of business participates in the sale.
- In the case of doortodoor sales, the customer does not negotiate with anyone other than the sales representative (i.e., no principal negotiations are conducted exclusive of doortodoor solicitation of orders). Therefore, in order to avoid confusion, simplify the requirements imposed upon retailers, establish certainty, and recognize the amount of services provided by local governments, the location from which the merchandise is shipped will be considered the business location which is the “place of sale” when the property is shipped from a location in California.
- If the retailer has a single business office in California but all merchandise is shipped from an out-of-state location, the location of the business office will be considered the “place of sale.”
- If the retailer has more than one business office in California, but all merchandise is shipped from an out-of-state location, the business office in California which receives the order for merchandise and/or directs the activities of the sales representatives who make the sales will be considered the “place of sale”.
- If the retailer has neither a business office nor a location from which merchandise is shipped in California, sales will continue to be allocated to the county of use, which is considered to be the county in which the sales representative operates.

Transaction Taxes

Changes to Regulation 1802 have no effect on the reporting requirements for the Transaction (Sales) and Use Tax. Section 6015 retailers will continue to report and pay transactions (sales) and use taxes on sales made within districts (See CPPM 215.030). Likewise, they must collect and remit use tax when property is sold or leased for use in the district if the property is shipped into or leased for use in the district or the retailer or his/her representatives has participated within the district in making the sale.

See the decision table below.

Section 6015 Decision Table

Condition	A	B	C	D	E	F
Taxpayer has one distribution location in California	Y					
Taxpayer has both in-state and out-of-state distribution locations from which sales to in-state distribution/salespersons are made		Y				Y
Taxpayer has NO in-state distribution locations			Y			
Taxpayer has more than one distribution center. All distribution centers are located in the SAME local tax jurisdiction					Y	
Taxpayer has more than one distribution center in MORE THAN ONE local tax jurisdiction				Y		Y

Action	A	B	C	D	E	F
Assign Taxable Activity Type "SR"	X ¹	X ¹				
Assign Taxable Activity Type "SR S"			X ¹			
Assign Taxable Activity Type "SR X"					X ¹	
Assign Taxable Activity Type "SR Y"				X ¹		X ¹
Use area code of in-state warehouse or distribution point	X ²	X ²			X ²	
Use area code "59-999"			X ²			
City portion of code "000"				X ²		
Retailer reports local tax to in-state jurisdiction of California location from which property is shipped.	X ³	X ³		X ³	X ³	X ³
Retailer allocates local tax to county in which agents operate. Allocation is made on schedule B of tax return.			X ³			
Retailer allocates local tax on property shipped from out-of-state to in-state office which receives order or directs activities of agents.		X ³				X ³

LEGEND

Y = YES

☐ = NO

X# = ACTIONS TO TAKE

AUCTIONEERS, OUT-OF-STATE RETAILERS, AND PURCHASERS**265.030** |

The Auctioneer and Auction Licensing Act, commencing with Section 5700 of the Business and Professions Code, provides that the applicant for an auctioneer's license must show proof that the auctioneer, or the auctioneer's employer holds a valid seller's permit issued by the State Board of Equalization, if applicable.

Persons making sales at auction, either at a permanent place of business or on the premises of their clients, whether of their own merchandise or that of their clients, must report and pay the tax due on their returns filed under their own permit numbers. Auctioneers who have a permit for a permanent place of business are not required to secure separate permits for each sale they conduct away from the permanent site. If, however, sales at other locations will extend over a period of more than 30 days, a separate permit or subpermit should be issued to that site.

Following are some basic rules to determine whether or not the account qualifies as a special seller with the Taxable Activity Type (TAT) SR S:

- Auctioneers who regularly conduct auctions at places other than their permanent place of business are assigned the TAT SR S.
- Auctioneers who regularly conduct auctions at places other than their permanent place of business, and those sales extend over a period exceeding 30 days, will be assigned a consolidated account with TAT SR Z and separate subpermits for each sales location.
- Auctioneers who occasionally hold auctions at other than their permanent place of business and who report local tax of \$600 a year or less are not required to provide a county breakdown of the local tax and are assigned the TAT SR.
- Auctioneers who conduct sales of thoroughbred horses at race tracks on a recurrent basis will be issued a permit for the race track location coded to the taxing jurisdiction in which the race track is located with an SR TAT unless a consolidated permit would be more appropriate.

Local Sales and Use Tax Allocation for Transactions Over \$500,000 |

Regulation 1802, Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes, has been revised as it relates to the allocation of local sales tax for certain sales by auctioneers and to the allocation of local use tax for large sales transactions by out-of-state retailers and large purchases by permit holders.

- Auctioneers are required to allocate the local sales tax to the local jurisdiction of the auction site, for auction events with aggregate taxable sales of \$500,000 or more.
- Out-of-state retailers registered to collect sales and use tax, except SC voluntary accounts, are required to allocate the local use tax to the local jurisdiction of the first functional use of the property for taxable transactions of \$500,000 or more when the order for the property is sent by the purchaser directly to the retailer's out-of-state location and the property is shipped directly to the purchaser in this state from a point outside this state.
- Permit holders who make a purchase of \$500,000 or more without payment of the sales or use tax to the vendor are required to allocate the local use tax to the local jurisdiction of the first functional use of the property.

Reporting

Auctioneers must use Form BOE-530-B, Local Tax Allocation for Temporary Sales Locations and Certain Auctioneers, to allocate local sales tax for auction events with taxable sales in an aggregate amount of \$500,000 or more.

Purchasers and out-of-state retailers, as outlined above, are required to use Form BOE-531-F, Schedule F — Detailed Allocation of 1% Uniform Local Sales and Use Tax, to allocate the local use tax to the local jurisdiction of the first functional use of the property. Sellers and purchasers who meet the \$500,000 criteria should be coded with account characteristic code 12 on the Registration File. These sellers and purchasers will receive a Schedule F, BOE-531-F, with their return.

Functional use means use for the purposes for which the property was designed. Location of first functional use should be documented unless it is the place of delivery.

Auctioneers, sellers and purchasers who do not meet the \$500,000 criteria will continue to allocate the local use tax to the county place of sale using Schedule B. Therefore, it may be necessary for certain auctioneers, sellers and purchasers to use two different schedules to allocate local tax.

Registration

Auctioneers — Districts and the Information Center (CATS) are to assign account characteristic code 006 to qualifying auctioneers. Also, form BOE-530-B should be given to the new auctioneer registrants. The account should be assigned account characteristic code 006 to auctioneers who meet the \$500,000 criteria.

Purchasers and out-of-state retailers — New registrants who may be candidates for this reporting requirement should be asked if they plan to make any sales or purchases of \$500,000 or more. If so, the owner name and account number should be referred to the Policy, Evaluation and Planning Section in the same manner as for auctioneers as noted above. New accounts registered within the period when returns are to be manually furnished should also be furnished a Schedule F. The account will be reviewed and assigned an account characteristic code 12 in the account's registration record.

Reference: Operations Memo No. 1051

VENDING MACHINE OPERATORS**265.040****Considered Consumers**

- Any vending machine operator is a consumer of, and shall not be considered a retailer of, food products that sell at retail for 25 cents or less and which are actually sold through a vending machine.
- Nonprofit PTA and equivalent organizations and nonprofit library support organizations are consumers of all tangible personal property sold through a vending machine, regardless of price.
- Library districts, municipal or county libraries and their contracted vendors are consumers of photocopies sold through coinoperated copy machines located at a library facility, regardless of price.

Considered Sellers

- Any person other than the above who makes sales of taxable property through vending machines is required to hold a seller's permit and report and pay tax on the gross receipts of sales made through the machines.
- One permit is sufficient for all the machines of one operator; however, each of the permit holder's machines must be labeled to reflect the operator's name, business address and seller's permit number.

Tax Included Sales

- Sales will be regarded as having been made on a taxincluded basis if a statement in substantially the following form is affixed: "All prices of taxable items include sales tax reimbursement computed to the nearest mill."
- If more than one vending machine is located at the same place, a clearly readable sign containing the above statement may be placed near the machines instead of having to place the statement on each vending machine.

*Reference: Regulation 1574***Coding**

- The TAT SR is assigned when the operator's installations are all, or substantially all, located in one county irrespective of the volume of local tax revenue involved. These accounts are assigned the countywide area code for the county in which the operator's place of business is located (first five digits end "999").
- The TAT SR S is assigned when the operator is doing business on a large scale with significant amounts of tax generated in two or more counties. These accounts are assigned the area code for the place of business. (See CPPM Subsection 230.030.)

Reference: Section 6359.45, section 6370.4, and section 6021 R & T Code

RETAILERS ENGAGED IN INTERSTATE COMMERCE**265.045**

In general terms, an interstate commerce sale is a sale in which the goods are delivered from out of state inventory directly to the California consumer with title passing out-of-state. Such transactions are exempt from sales tax, but are subject to use tax due from the purchaser.

Even a sale that is negotiated at a California sales office may be a sale in interstate commerce if delivery is made from an out-of-state stock of goods and title to the goods passes out-of-state. If the retailer ships by means of a common carrier, title is presumed to pass upon delivery of the goods to the carrier (out-of-state) unless there is an explicit agreement to the contrary (see Regulation 1620).

Registered California retailers are required to collect the use tax due from their customers on interstate commerce sales and remit it to the Board with their returns. These accounts are coded Taxable Activity Type SR S or SR Z when the local use tax exceeds \$600 per year. The local use tax must be allocated to the place of delivery.

SELLERS PURCHASING EX-TAX FOR USE AT LOCATIONS NOT REQUIRING A PERMIT**265.050**

Sellers who have permits issued for their places of business but who make extax purchases of tangible personal property out-of-state and make use of the tangible personal property at some location where no seller's permit is required are considered to be special sellers with the Taxable Activity Type SR S.

An example of such a seller would be a roofing contractor with a permit at his or her place of business for overthecounter sales, but who makes purchases of shingles extax from out-of-state and installs the shingles at various locations throughout the state, thus requiring a special allocation of the local tax.

VEHICLE LESSORS**265.055****Certain Vehicle Lessors Effective January 1, 1996**

Effective January 1, 1996 certain vehicle lessors are required to allocate the local use tax collected on vehicle leases to the business location of the dealer from whom the lessor purchases the vehicle. Lessors required to allocate local use tax in this manner do so using Schedule F provided with their sales and use tax return.

Vehicle Lessor Identification Field (TAR On-Line Registration)

In order for vehicle lessors to receive a Schedule F they must have an Acct Char Code 009 in the TAR on-line registration system. Only those vehicle lessors that are required to file a Schedule F should have this Acct Char Code Taxable Activity Type for Vehicle Lessors.

- Vehicle Lessors should be either SR S or SR Z. Taxable activity type SR Z is assigned to lessors who have multiple places of sale locations that are not all in the same local tax jurisdiction.
- The taxable activity type SR or SR Y is assigned to new motor vehicle dealers who lease vehicles from their own inventory. Effective 1/1/96 these dealer/lessors are no longer classified as special sellers and their place of business is the place of use for reporting the local use tax on leases of their own vehicles.

Reference: Operations Memo No. 1036

SALES TAX ACCOUNTS WITH RECORDS OUT-OF-STATE 270.000**GENERAL 270.010**

Persons who maintain a place or places of business in this state, but whose books and records necessary for audit are located out of state should be controlled by the out-of-state district or fringe area district where applicable. (See Business Taxes CodeBook Section 110.035 for fringe area coding guidelines). Persons remaining in California but using the services of an out-of-state accountant or bookkeeper should have an office of control based on their instate location. In addition, an accountant's mailing code will be assigned if the conditions set forth in CPPM Subsection 230.080 are satisfied.

Single outlet out-of-state accounts with a place of business in this state are assigned SR Taxable Activity Type code, or if temporary, SR (ACCT CHAR 001). For other coding in conjunction with out-of-state accounts see Business Taxes CodeBook Section 110.035 (See CPPM Subsection 215.040 for Certificate of Registration — Use Tax guidelines.)

DISTRICT REPORT ON OUT-OF-STATE ACCOUNT 270.020

Information concerning the district report on out-of-state accounts will be entered via the online registration system. You will find a field titled "Out of St:" at the bottom of the "Taxpayer Information Screen" (info function key) of the online registration system. Information to be entered in this field consists of information on records maintained at an out-of-state location and information on records maintained in California. Once information is entered in the "Out of St:" field, a "greater than" sign will appear on the line next to the field title. The Out-of-State District has responsibility for both audit and compliance functions and is the district of control except for fringe area accounts. (See Subsection 270.080.)

Temporary accounts, Taxable Activity Type SR (ACCT CHAR 001), do not require entering information in the "Out of St:" field, however, the information in that field could be helpful at a later date.

PURPOSE OF THE DISTRICT REPORT ON OUT-OF-STATE ACCOUNTS 270.030

The primary purpose of the district report on out-of-state accounts is to provide the Out-of-State District audit staff with information not otherwise readily available. This screen is used as an aid in audit selection, and is also used by the out-of-state auditor in preparing to audit an account.

USE OF THE DISTRICT REPORT ON OUT-OF-STATE ACCOUNTS BY THE OUT-OF-STATE DISTRICT 270.040

When the Out-of-State District receives information that records of an active instate account have been moved to an out-of-state location, under the control of the taxpayer, they will make the proper entries in the "Out of St:" field of the online registration system. The Out-of-State District will effect an interdistrict transfer of the account to the Out-of-State District.

If information is received that the records of an instate business are no longer located out-of-state, under the control of the taxpayer, the district obtaining that information should effect an interdistrict transfer to the instate district of control via the online registration system.

SINGLE OUTLET OUT-OF-STATE ACCOUNTS**270.060****Sales and Use Tax Single Outlet Account**

When the determination is made that the books and records sufficient for audit purposes are located out-of-state under the control of the taxpayer, use the “Warehouse or Single Outlet” decision table in Section 110.035 of the Business Taxes Code Book as a guide to determine the proper Taxable Activity Type code, office code, and area code for single outlet accounts.

CONSOLIDATED OUT-OF-STATE ACCOUNTS**270.070**

When the books and records sufficient for audit purposes are located out-of-state under the control of the taxpayer, use the “Fringe Area, Out-of-state Consolidated (Including Warehouses) Accounts” decision table in Section 110.035 of the Business Taxes Code Book as a guide to determine the proper Taxable Activity Type code, office code, and area code for single outlet accounts.

FRINGE AREA ACCOUNTS**270.080**

Permittees operating in areas adjacent to the state (“fringe areas”) are the responsibility of specific instate districts. When the permittees’ customers are generally located within a single instate county, the first five digits of the area code will be the instate county code where the taxpayer generally operates followed by “999.” When instate customers are widespread, the area code will be 59–999 000 0000 (see also CPPM 240.035).

Business Taxes CodeBook Section 110.036 has a map of fringe areas and 110.037 has a listing of fringe area towns and offices. The district of control for a fringe area account will be the instate district of control.

Permittees that operate in state with a fringe area mailing address (not a consolidated account master location) are the responsibility of the instate district where the selling location is located. If necessary, audits will be conducted by the fringe area office by means of an interdistrict audit referral.

PERMITS AND LICENSES — FORMS BOE-442**275.000****ISSUANCE OF FORMS BOE-442****275.010**

The online registration account numbering system allows any Board office to complete the registration process and issue a permit for another district that is ultimately responsible for the account. Whenever an application is accepted, the permit should be delivered to the taxpayer.

A permit in the possession of the taxpayer is physical evidence that the taxpayer has complied with the requirements of the law and can legally operate a business at a specific location. When the online registration system is used, the proper permit is printed automatically at the end of the registration process. Accordingly, preparation of a permit should be one of the last steps performed in the registration process by the district which completes the registration form, when the registration is completed without using the online registration system.

LIST OF PERMITS ISSUED — FORMS BOE-442**275.020**

PERMIT	FORM #
Seller's (one permit for each selling location of consolidated accounts)	BOE-442-R
Consolidated Seller, Master Location	BOE-442-M
Certificate of Registration — Use Tax	BOE-442-U
Temporary Seller's Permit	BOE-442-ST
Consumer Use Tax	NONE

Those forms not produced as a direct result of the online registration system have the same form numbers.

CONTROL OF UNISSUED PERMITS AND LICENSES**275.035****Procedure to Be Used Only In Case Of On-Line Failure**

New permits and licenses are stocked in Sacramento Headquarters under the control of Headquarters Central Supply Unit. Permits are ordered on regular supply orders by a district or branch.

When ordering additional permit forms, the order should be for a three-month supply, and reordered when existing stock is reduced to a one-month supply.

Care must be given to the safekeeping of blank permits and licenses before use. Offices maintaining a supply of these forms will assign their safekeeping to one employee, who will keep blank permits and licenses in equipment that can be locked for security purposes.

In some instances, the applications can be treated as express mail registrations and handled once the system goes back online.

REISSUANCE OR REPLACEMENT OF PERMITS AND LICENSES**275.040**

Lost or mutilated permits or permits needing reissuance will be processed in accordance with CPPM Subsection 330.000. Once the determination has been made to reissue or replace a permit, the online registration system provides this opportunity through the print subsystem. You need only enter the account number and sub number, if applicable, and the online registration system will automatically provide the proper permit.

PREPARATION OF PERMITS, LICENSE AND CERTIFICATES IN GENERAL 275.050

The online registration system will automatically print out the proper permit for the taxpayer being registered. The explanation and instructions following are intended for use in the event a permit must be prepared by hand.

Permits, licenses and certificates have been designed to allow for seven lines of typing, 33 numeric or alpha characters per line using pica (10 characters per inch or 10 CPI) typewriter spacing. It will seldom be necessary, however, to use all seven lines provided.

Pica type (10 characters per inch or 10 CPI) should be used where possible. Corner marks are printed in the upper left and right corners to assist in positioning the form in the typewriter, and as an aid in determining the beginning and ending of each line.

The following items must be typed on the forms before they are issued:

- Account number
- Owner name
- Business Address
- City, State, ZIP
- Start date

The firm name (DBA) may be typed on these forms. If shown, the entry must be made outside the space outlined for the window envelope block.

Other items of data such as area code, mailing exception code, reporting basis, etc., are confidential data and are not typed on permit or license forms. Permit and license forms are displayed to the public, therefore disclosure of a reporting basis or other data could potentially allow inference of business volume or other confidential information. A mailing address may be included if it is different from the business address, allowing the form to be mailed in a window envelope.

Positioning items of data on the forms in their order of entry is as follows:

First Entry — Account Number

Starting with the top line, left side, type complete account number including Taxable Activity Type code, office code and numerical portion, i.e., SR ARA 15-789012, and the start date. If a subpermit, continue with a dash after the numerical portion, sublocation number, another dash, and master office code, i.e., SR Y EH 15-789012-0196-ARA. The account number is the only entry made on the first line of the form.

It is not necessary to prepare new permits when the only change is to the Taxable Activity Type indicator. This situation occurs when accounts are converted between SR X, SR Y, SR Z and SR.

**Second Entry (When Necessary) — Business Address
If Different From Mailing Address****Does Not Apply To Sublocations**

When the mailing address is different from the business address, type the business address on the second line, including the number and street but not the post office unless it is different from the post office of the mailing address. This is the only entry made on the second line. Do not insert the mailing address if the permit will be handed to the taxpayer in person.

Examples:

1310 Eighth Street (same post office as mailing address)

1310 Eighth Street, Sacramento (different post office from mailing address)

If the mailing address is the same as the business address, the second line is left blank.

Third Entry — Owner Name

Owner name is entered beginning on the next available line. As much as possible, a complete owner name should be entered subject to necessary abbreviations of first names of partners, etc.

Fourth Entry — Mailing Address (or Business and Mailing Address When Identical)

The business address is entered on the next available line. Two lines of the form are used for this entry. The first line will include number, street, etc. The second line will include post office, twoletter state abbreviation, and ZIP Code.

When the mailing address is different from the business address, enter the business address on the second line as described under "Second Entry".

Formatting for preparation of the form is fixed with respect to entering account number and business address (if applicable) on the first two lines. Entry of other data is flexible, subject to the amount of data that is to be entered. For example, the owner name need not be restricted to one line.

HINT: When preparing the form, determine how much data can be and should be entered before typing is started.

DISCLOSURE OF DRIVER LICENSE AND SOCIAL SECURITY NUMBERS 275.060

As part of the registration process, applicants are asked to provide their driver license number and social security number. The Social Security Number (SSN) will not be requested of corporate officers.

The Federal Privacy Act (PL 93–579), effective September 29, 1975 prevents any government agency from denying any right or privilege provided by law because of an individual's refusal to disclose his social security number.

The Federal Privacy Act, however, does not apply to any agency that required this information because of statute or regulation prior to January 1, 1975.

The Board required the social security numbers of applicants for seller's, use fuel and vendor use fuel tax permits (under the provisions of California Revenue and Taxation Code sections 6066, 8702, and 8712, respectively) prior to January 1, 1975. Therefore provisions of the Federal Privacy Act do not apply under these Taxable Activity Types. Applicants may be required to provide social security numbers to obtain such permits. The Board is required to inform the applicant what use will be made of the number. (See Subsection 275.070).

Submission of a social security number is completely voluntary when applying for consumer use tax and certificate of registration — use tax accounts. Forms for these Taxable Activity Types contain a space for social security numbers, and applicants must be informed of the voluntary aspects of the law. Issuance of permits or accounts will not be held up by lack of a social security number.

District Office/ Customer and Taxpayer Services (CATS) Procedures

- Staff will now physically view Driver License or other proof of identification for all applicants including corporate officers. If taxpayer refuses to show identification, a seller's permit will not be issued.
- The Social Security Number will no longer be requested of corporate officers. The SSN will be requested of all other applicants but documentation will not be required. If applicant refuses to provide the SSN, we will access FTB System to obtain the SSN. The applicant must be advised that we will obtain the SSN and be given the option to withdraw the application.

Express Mail Registrations

- Staff will request a California Driver License (CDL) or other proof of identification and photocopy for all applicants including corporate officers. If the CDL number is not provided, the application will be returned to the applicant for the missing information. If a photocopy is not attached to the application, access DMV System to verify CDL number provided by applicant.
- The SSN will not be requested of corporate officers. SSN will be requested of all other applicants, but photocopies of the SSN are no longer required. If the SSN is not provided we will access the FTB System to obtain the SSN. The applicant must be advised that we will obtain the SSN and he or she should be given the option to withdraw the application.

DISCLOSURE OF DRIVER LICENSE AND SOCIAL SECURITY NUMBERS**(CONT.) 275.060**

Staff performing the registration process should be flexible and accommodating to the fullest extent possible when verifying the required information. Discretion and professional judgment should always be used in cases when dealing with reluctant or uncooperative applicants. Exceptions to physical verification do exist and are sometimes warranted. When an exception is made, the reasons should be noted in Registration comments and approved by a supervisor. Reasons for exception can include: 1) the applicant is a fortune 500 company or a parent corporation registered out-of-state and officers are out-of-state or otherwise inaccessible, and instate business of the corporation is conducted through their California agent for process of service, 2) the request is for a temporary permit or for part-time sales activities that will not likely generate any significant tax liabilities, and the applicant has provided separate verifiable evidence of local residence, employment, or other acceptable identification. FEIN, California Identification Card, ITIN (individual taxpayer identification number), Passport, Visa (not the credit card), paycheck stubs, or income tax returns are acceptable forms of substitute identification. Once verification has taken place, one of the check boxes in the upper right corner of the BOE-400 should be checked. Staff should enter appropriate comments on the registration system noting the type of identification that was given. The supervisor may approve any exceptions to this policy on a case by case basis. Proper comments should be entered on the registration system indicating the reason for the exception and the name of the approving supervisor.

Taxable Activity Registration

This on-line access is to be used in the registration of accounts in cases where adequate taxpayer identification is not provided at the counter or the required photocopies of identification are not returned with a mail-in application. Additionally, if the authenticity of the documentation provided is questionable the on-line access should be used to verify the validity of the identification.

If during the verification process it is discovered that the SSN and/or CDL are registered in the FTB or DMV systems to a name other than that of the applicant, the applicant should be advised that they need to contact the Social Security Administration or DMV and resolve the apparent problem before the Board will issue a seller's permit. However, if the applicant has credible identification (SSN Card/Driver License) which supports his or her identity, a permit should be issued.

Duplicate SSNs or CDLs are occasionally discovered in the Client Taxpayer System during the Taxable Activity Registration process. Staff should verify which taxpayer the number belongs to by using the FTB and/or DMV Systems. The district of control should be notified of the Taxpayer Identification Number (TIN), account number, and name of the taxpayer with the erroneous identification number. The district of control will research and correct the erroneous information.

Internal Revenue Service Numbers for Nonresident Aliens

In the past, the Social Security Administration (SSA), has issued "not for work" social security numbers (SSN) to nonresident aliens, which we have accepted when issuing seller's permits. On May 29, 1996, the Internal Revenue Service (IRS) finalized regulations which provide for the issuance of a new IRS-issued taxpayer identification number called an IRS individual taxpayer identification number (ITIN) for use by alien individuals, whether resident or non-resident, who currently do not have, and are not eligible to obtain, social security numbers. The IRS began accepting applications for the ITIN on July 1, 1996.

Effective July 1, 1996, we will accept an ITIN as a valid taxpayer identification number for the registration process.

Reference: Operations Memo No.1048, 1082

**BOE-324-A, NOTICE TO INDIVIDUALS REGARDING
INFORMATION FURNISHED TO THE BOARD OF EQUALIZATION**

275.070

Form BOE-324-A, Notice to Individuals Regarding Information Furnished to the Board of Equalization, is furnished and noted to every applicant for a permit or account with the Board. The online registration system automatically places the Form BOE-324 on the bottom half of the page on which the permit is printed. Form BOE-324-A, is also provided to taxpayers on an annual basis with their tax returns.

MEXICAN MERCHANTS AND EXPORTERS**280.000****GENERAL****280.010**

Through cooperative efforts of the Chambers of Commerce in Mexico and the State Board of Equalization simplified methods have been devised for granting exemption from California sales taxes in transactions with qualified Mexican purchasers.

Board Publication No. 32, "Tax Tips for Sellers Making Sales for Resale or Export to Purchasers from Mexico," explains the acceptable procedures for establishing exemptions. Reference to the publication should be made whenever specific questions concerning the application of tax to these types of transactions arise.

MEXICAN PURCHASERS**280.020**

There are three groups of purchasers involved:

1. Mexican Retailers: All such retailers from the major Baja California cities are issued a plastic identification card by the Mexican Chamber of Commerce in their area. The card identifies the business, its resale registration number, and the business classification code(s) assigned to the retailer. The card also carries an expiration date and must be renewed annually. The card fits a standard credit card machine, and California sellers frequently imprint the card on the sale invoice in addition to obtaining a Mexican resale certificate. The respective Mexican Chambers issue the certificate cards to the Mexican merchants.
2. Mexican Consumers: Tax applies when property is delivered in this state to the purchaser prior to an irrevocable commitment of the property into the process of exportation. (See Regulation 1620.)
3. Registered Exporters: The Registered Mexican Exporters program was discontinued October 1, 1985.

The responsibility for this program rests in the San Diego Office (FH) of the Board.

See Decision Table, CPPM 280.030.

SALES TO MEXICAN RETAILERS AND CONSUMERS — DECISION TABLE**280.030**

CONDITIONS	A	B	C	D	E	F	G
Sale in California	Y	Y	Y	Y	Y	Y	Y
Property used in California prior to export	Y						
Purchased for resale in Mexico		Y					
Purchased for use in Mexico			Y	Y	Y	Y	Y
Shipped by common carrier - delivered in Mexico			Y				
Shipped by common carrier - delivered at Mexican Border				Y			
Shipped by seller's vehicle - delivered in Mexico					Y		
Shipped by seller's vehicle - delivered at Mexican Border						Y	
ACTION	A	B	C	D	E	F	G
Taxable	X						
No documentation available — Taxable							X
Exempt — Obtain "Resale Certificate of Mexican Merchant"		X					
Exempt — Obtain Bill of Lading			X	X ¹			
Exempt — Obtain copy of Mexican Import Documents				X ²	X ¹	X ¹	
Exempt — Obtain "Certificate of Delivery in Mexico"					X ²		
Exempt — Obtain "Certificate of Delivery at Mexican Border"						X ²	

LEGEND

Y = YES

= NO

X# = ACTIONS TO TAKE

PRECOLLECTION OF SALES TAX ON FUEL**285.000****WHAT IS THE “SG” PROGRAM?****285.005**

Fuel sales account for a major portion of California sales and transaction taxes. Because fuel is tightly monitored for both state and federal purposes, and because the business failure of a single retailer could have a serious revenue impact, Senate Bill 1610 (SB–1610) was enacted in July 1986, to require precollection of an amount of sales tax upon distribution of gasoline in California.

SB–1610 refers to payment of sales tax at distribution as “prepayment.” This causes confusion with provisions of the Sales and Use Tax Law dealing with quarterly prepayment reporting basis assigned to retailers. To eliminate confusion between the two programs, “precollection of tax” will refer to sales tax due upon distribution of motor vehicle fuel.

Effective January 1, 1992, retailers of diesel fuel, aircraft jet fuel and other qualifying fuels are required to prepay a portion of the sales tax to their fuel supplier on all purchases of these fuels. This program is similar to the existing pre-collection of sales tax on motor vehicle fuel except that the pre-collection rate is one and onehalf cents (\$.015) less per gallon. Effective April 1, 2000 the pre-collection rate on diesel was established separately from the rate on gasoline. Also, the pre-collection rate on jet aircraft fuel was separated from the rate for diesel.

SIMILARITIES WITH THE MOTOR VEHICLE FUEL TAXABLE ACTIVITY TYPE 285.010

Although Senate Bill 1610 was written to closely parallel the Motor Vehicle Fuel License Tax Law, the term “precollection” refers only to sales tax. Enough similarities exist so that if California highway taxes are due, so is the precollection of sales tax. The rate is set each year by the Board based upon average retail prices. In times of rising prices, the precollection rate will be increased; if prices are decreasing, the precollection rate will be lowered.

Account numbers used for precollection accounts are comprised of 4 or 5 alpha characters followed by 8 digits as follows:

- The Taxable Activity Type is always SG.
- The district portion of the tax code will be the same as the office shown for the seller’s permit.
- The first two digits are “77” or “78.” If the taxpayer holds a Motor Vehicle Fuel Distributor account, which begins with “07,” the first two numbers then become “77.” If the taxpayer holds a Motor Vehicle Fuel Broker account, which begins with “08,” the first two numbers then become “78.”
- The last six numbers are the last six digits of the taxpayer’s motor vehicle fuel distributor or broker tax account.
- If a taxpayer does not need a Motor Vehicle Fuel License Tax account, a SG account number will be issued by the Account Analysis and Control Section. This is necessary for taxpayers who distribute only diesel, aircraft jet fuel and other qualifying fuels, or participate in a card lock network. Such accounts will be issued an account number beginning with the “78” prefix followed by six additional numbers beginning with 020001. The start date for the account will be determined by District Office investigation unless the start date is prior to January 1992. If this is the case, January 1992 will become the start date of the SG account.

SIMILARITIES WITH THE MOTOR VEHICLE FUEL TAXABLE ACTIVITY TYPE**(CONT.) 285.010**

Retailers are responsible for the payment of sales tax on retail fuel sales. When retailers file sales tax returns, credit is taken for the amount of sales tax precollected by their suppliers at the time of distribution; the retailers then remit the difference between what is due on retail sales and amounts already paid through precollection.

Retailers selling fuel are mailed the sales and use tax return, Form BOE-401-GS, provided the account is coded with an account characteristic code of "3," "4" or "5".

DUE DATES FOR PRECOLLECTION RETURNS**285.020**

Suppliers and wholesalers file an "SG" prepayment tax return, Form BOE-401-DB. Tax return due dates for the "SG" program are on the last day of the month following the month in which the fuel was removed, entered, or sold

APPLICATION PROCEDURES**285.030**

The "SG" accounts are initiated using the Motor Vehicle Fuel License Broker or Distributor applications. Once the MB or MD account is registered, Special Taxes Department, Fuel Taxes Division sends to the Account Analysis and Control Section, a copy of the BOE-400-ET. To issue the SG PreCollection number, the Account Analysis and Control Section takes the first two numbers of the MB or MD account number and changes them to either 77 or 78. Information on Form BOE-400-ET is used to set up the SG account on the registration display. When a taxpayer is not required to have a Motor Vehicle Fuel License but is a wholesaler of fuel requiring a SG account, district office staff initiates the registration process. District office staff sends a mini-memo with a printout of the taxpayer's sales tax account TAR AI screen to the Account Analysis and Control Section. This memo should include the start date for the SG account, and the reason the SG account is needed. When the Account Analysis and Control Section establishes the account number, the seller's permit of the SG account is entered into the Comments Screen of the OnLine Registration System. Once the account has been registered, a notification letter is sent to the taxpayer indicating the account number and reporting requirements. The SG file is maintained at Taxpayer Records Unit.

SPECIAL TAXES AND FLOOR TAXABLE ACTIVITY TYPES 290.000**SPECIAL TAXES DEPARTMENT OVERVIEW 290.005**

The Special Taxes Department includes three program-related divisions: Environmental Fees, Excise Taxes, and Fuel Taxes. The specific Special Taxes programs and the responsible divisions are listed below:

Environmental Fees Division

Hazardous Substances Tax

1. Hazardous Waste Disposal Fee
2. Hazardous Waste Generator Fee
3. Hazardous Waste Facility Fee
4. Hazardous Waste Activity Fee
5. Environmental Fee

Ballast Water Management Fee

Occupational Lead Poisoning Prevention Fee

Excise Taxes Division

Alcoholic Beverage Tax

1. Beer
2. Wine
3. Distilled Spirits

Cigarette and Tobacco Products Tax

1. Cigarette Tax
2. Other Tobacco Products

Emergency Telephone Users Surcharge

Energy Resources Surcharge

Insurance Tax

Integrated Waste Management Fee

1. Solid Waste Quarterly Fee
2. Solid Waste Annual Fee (repealed 10/1/93)

Tire Recycling Fee

SPECIAL TAXES DEPARTMENT OVERVIEW**(CONT.) 290.005****Fuel Taxes Division**

Childhood Lead Poisoning Prevention Fee

Diesel Fuel Tax

International Fuel Tax Agreement (IFTA)

Motor Vehicle Fuel License Tax

1. Distributors
2. Brokers
3. Aircraft Jet Fuel Dealers

Oil Spill Response, Prevention, and Administration Fees

1. Administration Fee
2. Response Fee

Underground Storage Tank Maintenance Fee

Use Fuel Tax

APPLICATION PROCEDURES**290.010**

Special Taxes Department personnel are responsible for all audit and compliance functions for their programs, with the exception of floor tax activities (see 292.000). Field offices do not stock application forms for any Special Taxes programs. Taxpayers who contact field offices for Special Taxes information or permits will be referred directly to the Excise Taxes, Environmental Fees, or Fuel Taxes Division.

FLOOR TAXES**292.000****GENERAL****292.005**

Floor taxes are used by the Board to collect manufacturers' and distributors' excise taxes directly from wholesalers and retailers on merchandise or a stock of goods, which is already in the possession of the wholesaler or retailer ("on the floor"). Floor taxes have been used in the past for cigarettes, tobacco products, alcoholic beverages and motor vehicle fuels.

Generally, when a specific excise tax increase is either legislated or passed by the voters, any merchandise or goods already distributed but unsold must be taxed on the difference between what has been paid by the manufacturer and the new tax rate. Floor taxes thus become the method of collecting this tax difference.

METHOD OF DETERMINING WHICH ACCOUNTS ARE SUBJECT TO FLOOR TAX**292.010**

Once an increase in excise taxes has been authorized through legislation or ballot initiative, accounts must be selected which potentially sell merchandise or goods subject to the tax increase. For example, when the voters passed Proposition 111 in June 1990, motor vehicle fuel taxes increased by 5 cents per gallon beginning August 1, 1990.

Motor vehicle fuel taxes are due at the time of first distribution of the fuels, so distributors raised the amount remitted to the state on or after August 1. Fuels already distributed, on the other hand, were subject to the tax but had already left the distributor.

Special floor tax returns, using a prefix of FT, were designed for retailers to report the tax, and were mailed to all sales tax accounts with a "G", "D" or "B" in the account analysis code portion of the coding grid. Other criteria can be used depending upon specific circumstances.

FLOOR TAXES IMPOSED BY PROPOSITION 111**292.020**

Five separate floor tax mailings were required under provisions of Proposition 111 and were due as follows:

Time Tax Imposed	Date Tax Imposed	Rate per Gallon	Return Due By
12:01 AM	August 1, 1990	\$0.05	August 31, 1990
12:01 AM	January 1, 1991	\$0.01	January 31, 1991
12:01 AM	January 1, 1992	\$0.01	January 31, 1992
12:01 AM	January 1, 1993	\$0.01	January 31, 1993
12:01 AM	January 1, 1994	\$0.01	January 31, 1994

Floor stock returns were mailed to sales tax accounts with "G" or "D" entries in the account analysis code portion of the coding grid. "B" entries did not receive returns in January 1991 or subsequent years, though they did receive initial returns in August 1990.

DELINQUENCY CONTROLS FOR FLOOR STOCK PROGRAM**292.030**

Delinquency notices are sent to recipients of floor stock returns six weeks after the due date of the return. A second notice is sent 12 weeks after the due date of the initial return, and a list of delinquent accounts forwarded to field offices.

Motor vehicle fuel tax collection is the responsibility of the State Controller's Office. Collection problems and refund requests received by telephone should be directed to the State Controller for resolution.

MISCELLANEOUS**295.000****IMPLEMENTATION OF NATIONAL VOTER
REGISTRATION ACT (MOTOR VOTER BILL)****295.010**

Under the National Voter Registration Act of 1993 (NVRA), certain state and local agencies are required to ask whether their clients are registered to vote. If the clients are not registered, the agencies must offer them the opportunity to register and submit the voter registration form to local election officials. The NVRA requires the participation of agencies issuing driver's licenses (hence, "motor voter"), and of agencies providing public assistance or services to the disabled. The NVRA also allows states to designate other agencies as "voter registration agencies". The effective date of the NVRA is January 1, 1995.

In his executive Order W-98-94 the Governor designated "State Board of Equalization district offices which provide services to the public" as voter registration agencies. The Board has determined this to include all Sales and Use Tax district and branch offices.

NVRA Requirements

As a designated voter registration agency the Board district offices are required to:

- Provide a form which includes the statements set forth in Sec. 1973gg-5(a)(6)(B) of the Act. The Secretary of State's office has developed this form which is titled "Would You Like To Register To Vote" and is known as the declination form.
- Provide a mail voter registration application form or its own equivalent form with each application for service or assistance, and with each recertification, renewal, or change of address. The Board has determined this to mean sole proprietors requesting registration or appearing in person for account maintenance.
- Provide each applicant who does not decline to register to vote the same degree of assistance in completing the voter registration application form as they would provide for the completion of Board forms.
- Transmit completed voter registration forms accepted by the agency to the appropriate state election official within specified deadlines. In California this is any county registrar of voters regardless of the county of residence of the client registering.
- Ensure that those who provide the services described in Sec. 1973gg-5(a)(4)(A) do not: (a) seek to influence an applicant's political preference or party registration; (b) display any political preference or party allegiance; (c) make any statement to an applicant or take any action to discourage the applicant from registering to vote; or (d) make any statement to an applicant or take any action which leads the applicant to believe that a decision to register or not to register has any bearing on the availability of services.
- Ensure that no information relating to a declination to register to vote is used for any purpose other than voter registration. The state shall not disclose information relating to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered. Therefore, the Board may not disclose who has registered to vote through Board district offices or who has declined to register. All completed declination forms are to be retained by the Board and not transmitted to the county registrars.

NVRA does not require voter registration agencies to keep statistical information. However, the Board will keep data on the number of declination forms provided and the number of voter registration forms completed by clients.

Which Clients Are Affected

All sole proprietors who request registration or who appear in person for account maintenance are to be given the declination form for completion and the opportunity to register to vote. Partnerships and corporate entities are not affected.

District Office Procedure

- District Administrators will designate a contact person for each office under their supervision who will:
- Communicate with the county elections office for training assistance, training material, and voter registration forms.
- Transmit completed voter registration forms to the county elections office every Friday at close of business starting January 6, 1995. Transmitting every five business days will meet all deadlines as required by the act.
- Maintain completed declination forms in the district office and a monthly count on the number of declination forms provided clients and the number of completed voter registration forms. Declination forms are to be held for four years and shall not be used for any purpose other than the maintenance of the NVRA. The information on the forms may not be disclosed to anyone including county election officials and staff.
- Ask all sole proprietor applicants who appear in person for registration or account maintenance to complete and sign the voter registration declination form. Any client who refuses to complete or sign the declination form will be considered as having declined to register to vote and no further action is required.
- Provide a mail-in voter registration form to those clients who indicate a desire to register to vote.
- Provide assistance in completing the voter registration form to those clients who request help in completing the voter registration form. Clients who prefer, may fill out the voter registration form and mail it on their own. All completed voter registration forms left with the Board are to be transmitted to a county elections office in the manner stated above.

Mail Registration Clients

Clients who request registration by mail are to be sent a voter registration declination form along with the mail-in registration packet. If the declination form is returned with a positive request for voter registration a mail in voter registration form will be sent with the completed registration packet. If the completed voter registration form is returned to the Board it will be transmitted to a county elections office, as above. Otherwise, no further action is required.

Reference: Operations Memo No. 1022

APPLICATIONS FOR PERMITS TAKEN FOR OTHER DISTRICTS**295.020**

Whenever an application is accepted for another district, it should be completed in its entirety. When necessary, the district accepting the application will telephone the district in which the business is located to obtain the required information and coding data.

When it is determined that security is required, the district accepting an application shall set, and obtain from the applicant, the amount requested. If the applicant does not deposit the requested security at the time of application they should be informed that they can do so at the district of control since that office is in the area where the applicant's business is located and that office will be maintaining their records. If the taxpayer wants to deposit the security at the registering office, but cannot do so immediately, copies of the application and security documents should be retained at the registering office and the originals sent to the district of control.

Security amounts are subject to adjustment by the district of control and the applicant should be advised that an adjustment might be necessary. The district accepting the application should, however, set the amount of security as accurately as possible. See CPPM Chapter IV for security guidelines when issuing new permits.

Care should be taken when reinstating a closed out or revoked account for another district. In these cases, the district of control should always be contacted to determine whether or not there are any special requirements for reinstatement of the account.

DELIVERY OF PERMIT OR LICENSE TO APPLICANT**295.030**

The delivery of a permit or license to an applicant is evidence the applicant has complied, or will comply, with the requirements of the law to the satisfaction of the Board.

SELLER'S PERMITS TO MAKE EX-TAX PURCHASES**295.040**

Seller's permits are issued to persons who will be engaged in a bona fide business activity of selling tangible personal property.

Some persons try to secure permits so they may purchase tangible personal property for their own use at wholesale prices. Many persons will attempt to place themselves in the category of sellers in order to secure a seller's permit for these improper purposes. Such use is prohibited by Revenue and Taxation Code section 6072 and is a misdemeanor per Section 6094.5 and punishable as provided in Section 7153.

When it appears the permit is to be used solely for purchasing property for use, the applicant should be informed that issuing a seller's permit is not proper and that a permit will not be issued. These persons should be referred to Sections 6072, 6094.5 and 7153. Copies of these sections may also be provided.

OCCASIONAL SALES**295.050**

Generally, more than two sales in a twelve month period (not calendar year) made by the same person requires a seller's permit. A permit is not necessary if the series of sales were:

1. Few in number,
2. Of an inconsequential amount, and
3. The type of sale is inconsistent with the seller's normal business activity.

All three of the foregoing conditions must be present to eliminate the need for a permit.

Each case must be decided on its own merits as to whether the series of sales is sufficient in number, scope, and character to constitute an activity for which a seller's permit is required. Chapter 10 of the Audit Manual contains a complete discussion of this subject and should be referred to for additional information.

Regulation 1595, **Occasional Sales**, was amended to clarify the first two sales in a series of sales requiring a seller's permit are exempt from tax as occasional sales. The third sale in such a series, and any subsequent sale, is subject to tax.

Whenever there is any doubt as to whether an occasional seller should be regarded as a retailer, the question should be submitted to the next level of supervision for a decision.

Reference: Revenue and Taxation Code section 6019 and 6072. Regulation 1595.

USE TAX DIRECT PAYMENT PERMIT**295.060**

Effective January 1, 1998, Section 7051.3 was added to the Revenue and Taxation Code allowing certain taxpayers to pay use tax directly to the board that would otherwise be collected by the retailer making the sale. The intent of this legislation is to provide for the direct allocation of use tax to the jurisdiction of first use by the purchaser rather than allocation through the countywide pool as determined by the retailer. Section 7051.3 applies only to **use** tax.

Use Tax Direct Payment Permits may be issued to any applicant who agrees to self-assess and pay use tax directly to the Board, and certifies to the Board either of the following:

- The applicant is the purchaser for its own use or is the lessee of tangible personal property at a cost of \$500,000 or more in the aggregate, during the prior calendar year,
- The applicant is a county, city, city and county, or redevelopment agency.

An applicant for a *Use Tax Direct Payment Permit* must either already hold a seller's permit or a consumer use tax permit. If the applicant does not hold a permit, he/she must file an application (BOE-400-DP). If the permit to be issued is exclusively for reporting use tax, the Taxable Activity Type "SU" should be assigned. If the applicant is a local government entity (as listed above), the Account Characteristic Code "013" should be assigned. If the applicant is someone other than a local government entity, the Account Characteristic Code 014 should be assigned.

CONSUMER USE TAX — TEMPORARY ACCOUNTS**295.080**

Unreported use tax is frequently uncovered through the Board's audit and investigation processes. When the person charged with the liability is not required to hold a seller's permit and is not registered under a consumer's use tax account number, the liability is assessed through a Report of Field Audit or Compliance Assessment (CAS) which results in a determination of tax due. In order to identify the liability, an arbitrary account number is assigned by the field office. The tax code is SR (ACCT CHAR 999). The office code represents the district in which the taxpayer is situated and the numerical portion is in the series 052-xxxxxx issued by the on-line registration system. (CPPM Sections 295.090 and 295.091) Once a number has been assigned, it may be used to identify any subsequent tax determination against the same person as long as a seller's permit or a consumer use tax account is not involved. For Consumer Use Tax Section accounts (vehicles, vessels etc.) see CPPM section 295.095

ARBITRARY ACCOUNT NUMBERS**295.090**

An arbitrary number is assigned to a nonpermitized or unidentifiable entity to accept payments, to identify an account, or for use in establishing a liability against an unlicensed or uncooperative person.¹

"Person" is defined in the various tax laws administered by the Board and is not limited to an individual or partner.

Arbitrary numbers often are an interim method of identifying an account or entity until a permit or license is issued or an existing account is identified for the entity. The tax code portion of the number varies according to the Taxable Activity Type; e.g., SR (ACCT CHAR 999), Sales Tax; FR, Use Fuel Tax; and FV, Vendor Use Fuel Tax (Fuel Taxable Activity Type arbitrary numbers are only issued by the HQ Registration Unit for the old use fuel Taxable Activity Types). The office code designates the district in which the activity in question has occurred. The numerical portion begins in the series 52-000000. For dual determinations, the series will begin with 53.

The assignment of an arbitrary number occurs when the Board receives tax returns, payments or significant correspondence that cannot be associated or identified with a permit. Under these circumstances, when a permit is subsequently issued or the proper account found, returns, remittances or balances previously posted to the arbitrary number may be allocated or transferred to the proper permit. This process is initiated at the field or Headquarters office through the preparation of Form BOE-523, Tax Return and/or Account Adjustment Notice, concurrent with the issuance of the new permit or license.

Payments in full received from taxpayers who are no longer operating and who did not hold a permit, as well as unidentified payments/documents received in field offices, must have an arbitrary account number assigned before transmittal to Headquarters unless they are Consumer Use Tax Section accounts (see CPPM Section 295.095).

Field offices using the on-line registration system issue arbitrary numbers in much the same way a regular permit is issued.

ARBITRARY ACCOUNT NUMBERS**(CONT.) 295.090**

Arbitrary account numbers are also assigned to unpermitted entities in connection with field audits and field billing orders after a Report of Field Audit or Field Billing Order has been transmitted to Headquarters. The need for assigning an arbitrary account number under these conditions should be avoided whenever possible. Every reasonable effort should be expended by the district to place the unpermitted entity involved under proper permit before the audit or field billing order is transmitted to Headquarters. When the assignment of an arbitrary account number is unavoidable and the account is placed under permit at a later date, the arbitrary account number is normally abandoned and all material, data and postings are transferred to the new account. Form BOE-523, Tax Return and/or Account Adjustment Notice, is prepared by the field office and a copy forwarded to the Headquarters Account Analysis & Control Section.

Preparation of documents is explained in the following subsection, CPPM 295.091.

PROCEDURE TO ISSUE ARBITRARY ACCOUNT NUMBERS**295.091****Control of Arbitrary Account Numbers**

Arbitrary account numbers are internally assigned by the on-line registration system in the same method as regular permits are issued. District offices may request a block of 100 arbitrary numbers from the Account Analysis and Control Section. These numbers are to be issued in the event the on-line registration system is unavailable for a period of time.

Guidelines for Issuance of Arbitrary Account Numbers

Arbitrary account numbers are not issued for Consumer Use Tax Section or Special Taxes Department accounts. Please refer to Subsection 295.095 for procedures related to Consumer Use Tax Section accounts.

An arbitrary account can be established by assigning the SR (ACCT CHAR 999) option from the CTS "Client Modify" screen. When the on-line system is down or not available a Form BOE-561, Arbitrary Accounts — Registration, is used to establish the arbitrary account. The information from the form may be transferred at your earliest convenience to the on-line system. The form BOE-561 may be ordered in pads of 50 from the Supply Unit.

Guidelines for Issuance of Dual Determination Arbitrary Account Numbers

The proper procedure to follow when dealing with dual determinations is to issue them through the use of an arbitrary number. Additionally, the arbitrary number **must be a '53' series**, which has been specifically designated for dual liabilities, and not the '52" series. Using the "53" series will prevent any delinquencies from appearing on the dualee account and will trigger appropriate ACMS programming designed to effectively deal with these accounts.

Regular or Issue and Cancel accounts **must not be issued** to bill any dual liabilities. The use of these accounts for dual purposes results in outstanding delinquencies on these accounts. This is due to the fact that the system expects regular return filings, which in fact will never be filed. The clearing of these delinquencies must then be manually handled by headquarters units, which results in additional unnecessary work for both Headquarters and District staff.

Dual Arbitrary "53" series accounts can be selected after creating the client TIN and then going to the CTS CM — Client Maintenance screen and selecting Arb for arbitrary. A pop up box will then appear where the **Dual Arb** (series 53) can be selected by placing a 'Y' in its corresponding action field.

Input To the On-Line Registration Screen Account Number

The on-line system automatically assigns an account number. If the BOE-561 is being used, enter the next available arbitrary account number from the block assigned to your district, branch, or unit. When you are able to transcribe the information to the on-line system, use the account number override capability and assign the number taken from the bank of numbers. Arbitrary account numbers presently begin with "052-9XXXXX": the "X" is a number issued from the number sequence.

Taxable Activity Type

When using the on-line system or the BOE-561 refer to the Business Taxes CodeBook, Subsection 100.070, for a list of all Taxable Activity Types administered by the Board. Arbitrary numbers may be issued only for Taxable Activity Types ending in N, and for Taxable Activity Type FV (vendor of fuel arbitrary number).

Owner Code

For both on-line and the paper batch files, enter the ownership code for the entity, if ownership can be determined. This entry must match the "Owner" line. If the owner's name is unknown, enter "Unidentified" on the owner line and the owner code will be generated from the entity type.

Doing Business As — (DBA)

Enter the DBA or fictitious name for the account, just as if you were establishing a regular on-line account. If no DBA is used, make no entries. This holds true for the BOE-561.

Owner

Enter the name of the owner or entity, just as if you were establishing a regular on-line account. When using the BOE-561, enter the name of the owner or entity in the space provided. Courtesy titles such as Ms., Mr. or Miss are not entered. If the owner's name is unknown enter "Unidentified" on the owner line.

District

For either the on-line system or using the BOE-561, enter the office of control. This office is established by where the business is located. Also see Publication 30, "Mailing Guide," for assistance in determining the office of control and tax rate.

Business Address

When using the on-line system, enter the business address just as if you were establishing a regular on-line account. If unknown enter the city, state and zip code. This also holds true for the BOE-561.

PROCEDURE TO ISSUE ARBITRARY ACCOUNT NUMBERS

(CONT. 2) 295.091

Area Code

The on-line system will generate three area code choices at the time the address of the business is identified. When using the BOE-561 and a specific area code cannot be determined, enter the county code followed by "999," plus any add-on and in-lieu codes applicable to the county.²

For example, an account in San Diego County where the exact location cannot be determined would show area code: 37999-017-0000

In the rare instance where no specific location or county of operation can be located, use area code "59999-000-0000."

On July 1, 1995, Diesel Fuel Tax became a separate program from Use Fuel Tax and the Special Taxes Department assumed administration of all fuel programs. Existing taxpayers who still needed a use fuel permit (for alternative fuels) were issued new permits. Previously, while use fuel was administered by the Sales and Use Tax Department, in-state fuel tax area codes were coded to the county where the books and records needed for audit and compliance activities were located, followed by "000-000-0000." A fuel account located in Ventura County would show an area code of "56000-000-0000." See the Business Taxes Code Book, Subsection 120.00, for a list of county codes. Out-of-state fuel tax area codes were entered based upon the state or country where the taxpayer was located. See the Business Taxes Code Book Subsection 120.00 for a list of state and country codes.

Mailing Address

When using the on-line system, enter the mailing address just as if you were establishing a regular on-line account. If unknown, this space may be left empty for arbitrary accounts. When the mailing address is different from the business address, enter the mailing address on this line. This is also true for the BOE-561.

Amount Of Payment

For either the on-line system, or if using the BOE-561, enter the amount of any payment received. If an entry is made in this area and is the same amount as the liability, make no entry in the "Amt. of Liability" section.

Amount of Liability

For either the on-line system or if using the BOE-561, enter the amount of any liability established by a "No Remittance" return, an audit, or a field billing order. Make no entry in this section for a "No Change" audit (BOE-414-C). If an entry is shown in this area, make no entry in the "Amt. of Payment" section. In the case of a "Partial Remittance" return, place the amount paid on the Amount of Payment line and the balance on the Amount of Liability line.

Liability Period

For either the on-line system or if using the BOE-561, enter the dates for which the arbitrary account is established. In the left side of the box show the beginning date in MM/DD/YY format, and on the right side show the ending date in MM/DD/YY format. For example, an account established for January 3, 1994 through May 27, 1994 would be entered as 01/03/94 — 05/27/94.

PROCEDURE TO ISSUE ARBITRARY ACCOUNT NUMBERS**(CONT. 3) 295.091****Cross Reference Account Number**

For either the on-line system or the BOE-561, enter the number of any related regular account affected by this transaction.

Reason for Issuing

For either the on-line system or the BOE-561, enter the number of the form that generated a need for an arbitrary number. For example, if a field billing order was prepared, enter BOE-414-B; an audit would be BOE-414-A; a payment received and transmitted on a tax return would be BOE-401; a payment received as a 2-B deposit to secure a clearance for an unpermitted entity would be shown as a BOE-487-C or BOE-487-D.

If you are unsure about the entry to place in this area, contact the Account Analysis and Control Section for guidance.

Comments

The on-line system will record who created the account. When using the BOE-561, enter the name and district or unit initials of the person requesting the arbitrary number. This information should be entered into the Comments area, so the originator may be identified when someone other than the originator enters the account information on the system.

CONSUMER USE TAX ACCOUNT NUMBERS**295.095**

The Consumer Use Tax Section (CUTS) has the responsibility of creating and maintaining on-line registration of taxable activities regarding the purchases made from non-dealers of vehicles, mobilehomes, vessels, aircraft, and purchases from outside the state by California residents hand carried and declared through U.S. Customs. The Taxable Activity Type (TAT) designators are SA (vehicles and mobilehomes), SB (vessels), SP (aircraft), and SI (customs). The following information is required for CUTS to issue an account number:

- Taxpayer's name, address and phone number
- Purchase date
- Purchase price (a copy of the Bill of Sale that is signed by the seller should be forwarded to the Consumer Use Tax Section)
- Identifying information for the tangible personal property such as; license number for vehicles or mobilehomes, CF number for vessels registered with DMV, documentation number for vessels registered with the USCG, tail or "N" number for aircraft registered with the FAA, as well as the make and year model.
- County where the vehicle, vessel or aircraft is stored, moored or hangared, if different than the county of residence for the taxpayer.

Full or partial payments received in the district office with a Combined State and Local Consumer Use Tax Return for Vehicles/Mobilehomes, Vessels, Aircraft, or Customs Declarations, should be processed by the district cashier the same as any other sales/use tax return.

If a payment is received without a return, the payment should be processed on-line related to the appropriate TAT. A copy of the check and any documents received in the district should be forwarded to CUTS. If the taxpayer is in the office, the required information identified above should be obtained and forwarded to CUTS with the copy of the check.

PENDING APPLICATIONS

295.120

In rare instances, the district administrator may withhold issuance of a permit pending receipt of the appropriate security if deemed to be in the state's best interest. In all other cases, the permit will be issued in accordance with the provisions of subsection 405.020.